

IN RE: PETITION FOR ZONING VARIANCE \* BEFORE THE  
S/S Stevens Road, 120 ft. W  
of c/l Coreley Beach Road \* ZONING COMMISSIONER  
5834 Stevens Road  
11th Election District \* OF BALTIMORE COUNTY  
5th Councilmanic District  
Katherine A. Gerry \* Case No. 97-7-A  
Petitioner

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 5834 Stevens Road in White Marsh. The Petition is filed by Katherine A. Gerry, property owner. Variance relief is requested from Section 431.B.3.b.c. of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property. The subject property and requested relief is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the public hearing held for this case was Katherine A. Gerry, property owner, and her son, Wayne Gerry, Jr. There were no Protestants or other interested persons present.

Testimony and evidence offered was that the subject property is approximately 1/3 of an acre in area, zoned R.C.2. The property is located on Stevens Road in White Marsh, not far from Pulaski Highway (U.S. Route 40). Mrs. Gerry indicated that she has owned the subject property for many years and that the property has been in her family for several generations. Her son, Wayne Gerry, Jr., is employed by the Caplan Glass Company, and has so been employed for approximately 11 years. In fact, Mr. Gerry's father and grandfather have also worked for this company over the years.

ORDER RECEIVED FOR FILING

Date

By

8/7/96  
M. Howard

In connection with that employment he drives a small step van vehicle. The vehicle advertises the Caplan Glass Company and is used to transport tools and glass products to various job locations. Mr. Gerry indicated that he drives this truck in connection with his employment and indicates that he leaves the house each day at approximately 6:00 A.M. to make service calls throughout the metropolitan area. Routinely, he arrives home at approximately 7:00 P.M. The truck is kept on site during his off hours and overnight. As shown on the driveway, a paved parking area is located at the front of the property adjacent to Stevens Road. The Petitioner also produced a signed statement from a number of neighbors of the locale indicating support for this long standing use.

Based upon the testimony and evidence offered, I am persuaded to grant the Petition for Variance. I am convinced that the Petitioner has satisfied her burden under law. Moreover, the relief granted shall be restricted only to the subject truck now driven by Mr. Gerry, or similar replacement.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

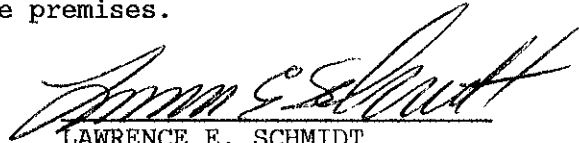
ORDER RECEIVED  
8/2/96  
M. G. G. G. G.  
Date  
BY

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of August, 1996 that a variance from Section 431.B.3.b.c. of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for

returning, said property to its original condition.

2. The relief granted herein shall be restricted solely to the Caplan Glass Company step van vehicle presently kept on the premises by Wayne Gerry, Jr., or a similar replacement. The relief granted will not allow parking of a larger vehicle on the premises.



LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES/mmn

ORDER RECEIVED FOR FILING  
Date 8/7/96  
By M. G. Hark

The granting of variances is governed by Section 307.1 of the BCZR which provides, in relevant part, that variances may be granted

only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance . . . would result in practical difficulty or unreasonable hardship.

The Court of Special Appeals, in Cromwell v. Ward, 102 Md. App. 691 (1995), has construed this regulation to mean that obtaining a variance is basically a two-step process. The first step requires a finding that the subject property is unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. The second step requires a finding that denial of the requested variance would result in practical difficulty or unreasonable hardship.

Cromwell v. Ward states that "Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship."

The Petitioner failed to present any testimony or evidence to this Board showing that the subject site possessed any peculiar, unusual or unique factors when compared to other properties in the neighborhood such that the requirements of Section 431 of the BCZR, governing the parking of commercial vehicles on residential property, would impact disproportionately upon her property.

Thus, the first step of the variance process was not met, and the practical difficulty or unreasonable hardship requirement cannot be properly considered.

However, even assuming, for the sake of argument, that the property meets the requirement of uniqueness, the Petitioner failed to produce convincing evidence of practical difficulty or unreasonable hardship.

The Petitioner's son uses the truck on his job, which sometimes includes night or weekend work. But the company has a parking lot for its vehicles, and the testimony of Mr. Steinharter shows that Mr. Gerry takes the truck home as a matter of convenience.

The Petitioner is seeking relief from Section 431.B.3, which requires that any commercial vehicle parked on residential property must be parked within a fully enclosed structure; if not, it

may not display any advertising except on the driver's door or front seat passenger's door (Section 431.B.3.b); and that the vehicle shall be parked in a side or rear yard (Section 431.B.3.c).

It is therefore necessary to determine what is the rear yard and what is the front yard of the subject property, which is a waterfront home. Baltimore County Zoning Regulations offer no definitions of front and rear yards in relation to the street, or, if a waterfront property, in relation to the water. However, this Board has found in past cases that waterfront homes are considered to have their front yards facing the water and their rear yards abutting the street, since people with homes on the water generally treat the yard facing the water as their front yard because of its view.

As an example, in Case No. 93-393-SPH, William P. Jordan, which concerned a property fronting on the Chesapeake Bay, the Board said that an enclosed structure in the yard facing the water was in the front yard.

The Zoning Commissioner, in Case No. 96-104-A, Joseph G. Bittle, Jr., et ux, stated: "This Zoning Commissioner, as well as the Board of Appeals, has consistently held that the front of waterfront property is that side of the site which faces the water."

In the instant case, the truck in question is being parked in the yard abutting the road. The Board finds that because the subject property is a waterfront property, the truck is being parked in the rear yard, and thus no variance is needed from Section 431.B.3.c.

The Petitioner does need a variance from Section 431.B.3.b, however. Photographs submitted by the Protestant show advertising across the entire side of the truck (Protestant's Exhibits 2A, 2B, 2D, 4 and 5E).

The Board finds that the Petitioner has failed to satisfy the requirements of Section 307.1 and will therefore deny her Petition for Variance from Section 431.B.3.b.

### **ORDER**

**IT IS THEREFORE** this 11<sup>th</sup> day of April, 1997, by the County Board of Appeals of Baltimore County

**ORDERED** that the Petition for Variance seeking relief from Section 431.B.3.b,c of

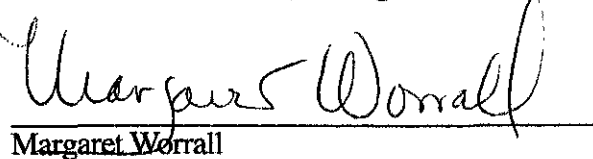
the Baltimore County Zoning Regulations to allow a commercial vehicle with advertising to be parked in the front yard of the subject property be and is hereby **DENIED**; and it is further

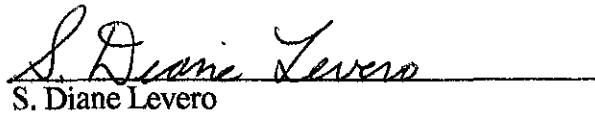
**ORDERED** that the subject commercial vehicle shall be removed within 30 days from the date of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

  
\_\_\_\_\_  
Kristine K. Howanski, Acting Chairman

  
\_\_\_\_\_  
Margaret Worrall

  
\_\_\_\_\_  
S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

April 11, 1997

Francis X. Borgerding, Jr., Esquire  
DINENNA AND BRESCHI  
Suite 600  
Mercantile-Towson Building  
409 Washington Avenue  
Towson, MD 21204

RE: Case No. 97-7-A  
Katherine A. Gerry -Petitioner

Dear Mr. Borgerding:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kathleen C. Bianco", followed by the word "for".

Kathleen C. Bianco  
Legal Administrator

encl.

cc: Mr. Mark A. Guelta  
Ms. Katherine A. Gerry  
People's Counsel for Baltimore County  
Lawrence E. Schmidt  
Arnold Jablon, Director /PDM  
Virginia W. Barnhart, County Attorney

MICROFILMED





# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 5834 STEVENS Rd.

97-7-A

which is presently zoned RC-2

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 431. B.3. b.c; BCZR TO

Permit a commercial vehicle with ADVERTISING TO BE  
PARKED IN THE FRONT YARD.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

*My son needs this vehicle for his living, with out it he will be out of a job. And I will be out of a home, because he helps me maintain my home. This is a 24 hr vehicle so he need it handy @ All times.*

*Thank You.*

Property is to be posted and advertised as prescribed by Zoning Regulations.  
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

KATHERINE A. GERRY  
(Type or Print Name)

Katherine A. Gerry  
Signature

(Type or Print Name)

Signature

5834 Stevens Rd. 3356508  
Address Phone No

White Marsh Md 21162  
City State Zipcode

Name, Address and phone number of representative to be contacted.

K. GERRY  
Name

SAME  
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL \_\_\_\_\_ OTHER \_\_\_\_\_

REVIEWED BY: Jim DATE 7-3-96

7



Printed with Soybean Ink  
on Recycled Paper

RECEIVED

Zoning Administration

Development Management



7/187  
**EXAMPLE 3 -- Zoning Description**

16-075250  
3 COPIES 97-7-A

Three copies of the zoning description of your property are required. This is a sample to help you with the description - DO NOT USE THIS FORM FOR "FILL-IN THE BLANK". Type or print the description on 8-1/2" x 11" paper. COPIES OF DEEDS CANNOT BE USED FOR THE DESCRIPTION. The zoning description must be in the following form:

ZONING DESCRIPTION FOR 5834 STEVENS RD.  
(address)

Beginning at a point on the SOUTH (END) side of  
(north, south, east or west)  
STEVENS RD. which is 20'  
name of street on which property fronts (number of feet of right-of-way width)  
wide at the distance of 120' WEST of the  
(number of feet) (north, south, east or west)  
centerline of the nearest improved intersecting street CORLEY BEACH RD.  
(name of street)  
which is 20' wide. \*Being Lot # 186,  
(number of feet of right-of-way width)  
Block —, Section # — in the subdivision of BIRD RIVER BEACH  
(name of subdivision)  
as recorded in Baltimore County Plat Book # 7, Folio # 187,  
containing 15,310 ± Also known as 5834 STEVENS RD.  
(square feet or acres) (property address)  
and located in the 11 Election District, 5 Councilmanic District.

\*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber —, Folio —" and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Typical metes and bounds: N.87° 12' 13" E. 321.1 ft., S.18° 27' 03" E.87.2 ft.; S.62° 19' 00" W. 318 ft., and N.08° 15' 22" W. 80 ft. to the place of beginning.

7



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

**PAYMENT WILL BE MADE AS FOLLOWS:**

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

**NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.**

\_\_\_\_\_  
ARNOLD JABLON, DIRECTOR

-----  
For newspaper advertising:

Item No.: 7 Petitioner: KATHERINE GERRY

Location: 5834 STEVENS RD. WHITE MARSH, MD. 21162

PLEASE FORWARD ADVERTISING BILL TO:

NAME: SAME

ADDRESS: \_\_\_\_\_

PHONE NUMBER: 335-6508

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY 97-7-A**  
**Towson, Maryland**

District: 11th

Posted for: London

Date of Posting: 7/14/96

Petitioner: Mathew H. Gony

Location of property: 5834 Storrs Rd

Location of Sign: Facing Roadway on property being zoned

Remarks: \_\_\_\_\_

Posted by: [Signature]

Signature

Number of Signs: 1

Date of return: 7/19/96

**NOTICE OF HEARING**

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the properly identified items to hear 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case #97-7-A

(Item 7)

5834 Stevens Road  
S.S. Stevens Road, 120' W. of  
of Croakey Beach Road  
11th Election District  
5th Councilmanic

Legal Owners:

Katherine A. Gerry

Variance: to permit a commercial vehicle with advertising to be parked in the front yard.

Hearing: Friday, August 2, 1996 at 2:00 p.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible, for special accommodations Please Call 887-3353.

(2) For information concerning the file and/or Hearing, Please Call 887-3391.

7/18/96 July 18 C67159

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 7/18, 1996

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/18, 1996.

**THE JEFFERSONIAN,**

*A. H. Erickson*  
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

N

024851

DATE 8/30/96 ACCOUNT R0016150

AMOUNT \$ 175.00

RECEIVED  
FROM:

QUELTA

FOR: Appeal of Case # 97-7-A

03A91#0154MICHRC \$175.00  
BA C001154PM08-30-96

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

MICROFILMED

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

7

No.

22884

97-7-A

DATE 7-3-96 ACCOUNT R001-6150

AMOUNT \$ 85.00

RECEIVED  
FROM:

KATHERINE GERRY

5834 STEVENS RD.

VAR (010)

50.00

FOR: PERSONAL (050)

35.00

RV+  
SIGN

MICROFILMED

03A91#0233MICHRC \$85.00  
BA C00216PM07-03-96

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

[Signature]

97-7-A

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
**Towson, Maryland**

District 11

Date of Posting

9/27/96

Posted for:

CASE No. 97-7-A

Petitioner:

KATHERINE A. CERRY

Location of property:

5834 STEVENS ROAD

Location of Sign:

Remarks:

Posted by

Signature

Date of return:

9-27-96

Number of Signs: 1



TO: PUTUXENT PUBLISHING COMPANY  
July 18, 1996 Issue - Jeffersonian

Please forward billing to:

Katherine A. Gerry  
5834 Stevens Road  
White Marsh, Maryland 21162  
335-6508

---

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-7-A (Item 7)  
5834 Stevens Road  
S/S Stevens Road, 120' W of c/l Coreley Beach Road  
11th Election District - 5th Councilmanic  
Legal Owner(s): Katherine A. Gerry

Variance to permit a commerical vehicle with advertising to be parked in the front yard.

HEARING: FRIDAY, AUGUST 2, 1996 at 2:00 p.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

100-100-100



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

July 11, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Legal Owner(s): Katherine A. Gerry

Variance to permit a commercial vehicle with advertising to be parked in the front yard.

HEARING: FRIDAY, AUGUST 2, 1996 at 2:00 p.m. in Room 106, County Office Building.

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Katherine A. Gerry

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.







County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

Hearing Room - Room 48  
Old Courthouse, 400 Washington Avenue

December 11, 1996

NOTICE OF ASSIGNMENT

CASE #: 97-7-A

IN MATTER OF: KATHERINE A. GERRY -Petitioner  
S/s Stevens Road, 120' W of c/l Coreley Beach Road  
(5834 Stevens Road) 11th E; 5th C Districts

ASSIGNED FOR: THURSDAY, FEBRUARY 20, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco  
Legal Administrator

cc: Appellant /Protestant: Mark A. Guelta  
ATTORNEY FOR PROTESTANTS; FRANCIS X. BORGERDING, JR. -- ENTERED APPEARANCE  
Petitioner : Katherine A. Gerry 2-18-97

People's Counsel for Baltimore County  
Pat Keller  
Lawrence E. Schmidt

Arnold Jablon, Director /PDM  
Virginia W. Barnhart, Co Atty



Case No. 97-7-A

Katherine A. Gerry - Petitioner

S/S Stevens Road, 120' W of c/v Coreley  
Beach Road (5834 Stevens Road)

11th Election District      Appealed 8/30/96



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

August 1, 1996

Ms. Katherine A. Gerry  
5834 Stevens Road  
White Marsh, MD 21162

RE: Item No.: 7  
Case No.: 97-7-A  
Petitioner: Katherine A. Gerry

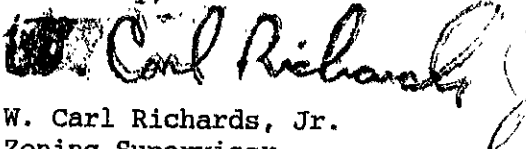
Dear Ms. Gerry:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on July 3, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

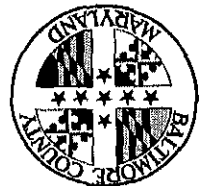
Sincerely,

  
W. Carl Richards, Jr.  
Zoning Supervisor

WCR/re  
Attachment(s)

ENCLOSURE





*[Signature]*  
DIRECTOR

**BALTIMORE COUNTY, MARYLAND**  
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT  
TOWSON, MARYLAND 21204

*[Signature]*  
BUILDINGS ENGINEER

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

FROM: Robert A. Wirth  
DEPRM

SUBJECT: Zoning Item #7 - Gerry Property  
5834 Stevens Road  
Zoning Advisory Committee Meeting of July 15, 1996

GERRY/DEPRM/TXTSBP

Baltimore County Government  
Fire Department



700 East Joppa Road  
Towson, MD 21286-5500

Office of the Fire Marshal  
(410) 887-4880

DATE: 07/12/96

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 15, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 2, 3, 4, 5, 6 and 7.

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Printed with Soybean Ink  
on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Permits and Development  
Management

DATE: July 11, 1996

FROM: Pat Keller, Director  
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item No. 521, 2, 3, 4, 5, 6, and 7

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by:

*Jeffrey W. Long*

Division Chief:

*Pat Keller*

PK/JL



**Maryland Department of Transportation**  
**State Highway Administration**

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

7-19-84

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County

Perm No.

7 (JCM)

Dear Ms. Watson:

This office has reviewed the referenced plan and we have no objection to approval as the development does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-545-5581 if you have any questions. Thank you for the opportunity to review this plan.

Very truly yours,

*for* *Bob Small*

Ronald Burns, Chief  
Engineering Access Permits  
Division

BS

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202





Petition for Zoning Variance  
S/S Stevens Road, 120 ft. W of c/l Coreley Beach Road  
(5834 Stevens Road)  
11th Election District - 5th Councilmanic District  
Katherine A. Gerry - Petitioner  
Case No. 97-7-A

✓ Petition for Zoning Variance

✓ Description of Property

✓ Certificate of Posting

✓ Certificate of Publication

✓ Zoning Advisory Committee Comments

Petitioners' Exhibit: ✓ 1 - Plat to Accompany Petition for Zoning Variance

✓ Petition with Eleven Signatures

✓ Letter of Opposition

✓ Zoning Commissioner's Order dated August 7, 1996 (Granted)

✓ Notice of Appeal received on August 30, 1996 from Mr. Mark A. Guelta

cc: \*Mr. Mark A. Guelta, 5832 Stevens Road, White Marsh, MD 21162  
Mrs. Katherine A. Gerry, 5834 Stevens Road, 21162  
People's Counsel of Baltimore County, M.S. 2010

✓E

Request Notification: Lawrence Schmidt, Zoning Commissioner  
Arnold Jablon, Director of PDM

Francis X. Borgerding, Jr., Esq.  
Mercantile Building - Suite 600  
409 Washington Avenue  
Towson, MD 21204

Entered appearance 9/18/97  
for Mark Guelta ~~as~~ PROTESTANT

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

February 21, 1997

NOTICE OF DELIBERATION

Having concluded this case on February 20, 1997, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

KATHERINE A. GERRY -Petitioner  
CASE NO. 77-A

DATE AND TIME : Thursday, March 13, 1997 at 9:30 a.m.

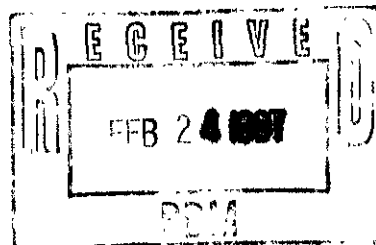
LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco  
Legal Administrator

---

cc:	Appellant /Protestant	Mark A. Guelta
	Attorney for Protestant	Francis X. Borgerding, Jr., Esquire
	Petitioner	Katherine A. Gerry
	People's Counsel for Baltimore County	
	Pat Keller	Arnold Jablon, Director /PDM
	Lawrence E. Schmidt	Virginia W. Barnhart, Co Atty

Copied: K.W.M.



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Katherine A. Gerry -Petitioner  
Case No. 97-7-A

DATE : March 13, 1997 @ 9:30 a.m.

BOARD /PANEL : Kristine K. Howanski (KKH)  
S. Diane Levero (SDL)  
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco  
Legal Administrator

Those present at this deliberation included Katherine A. Gerry, Petitioner, and Francis X. Borgerding, Jr., Esquire, Counsel for Protestant /Appellant, Mark A. Guelta. People's Counsel did not participate in these proceedings.

KKH: Good morning. We are here to deliberate Case No. 97-7-A, in the matter of Katherine A. Gerry, Petitioner. The issue is whether or not a variance can be afforded to the property pursuant to 304.1B of the Baltimore County Zoning Regulations. We are deliberating the issue this morning, and I will defer to my colleagues and hear from them first.

SDL: This case is an appeal from the decision of the Zoning Commissioner granting a variance from the Baltimore County Zoning Regulations to allow a commercial vehicle with advertising to be parked in the front yard of the subject property. The subject property is a waterfront home located on Bird River and zoned R.C. 2. Petitioner's son lives with his mother. He is employed by Caplan Class and uses his truck on the job. He parks in the yard on the subject property when not working. The Protestant next door opposes granting the variance because of safety problems; children run and ride out into the street without looking. He opposes on the grounds that advertising on the truck may detract from the property values if the truck is parked.

The vice president of Caplan Glass testified; truck is used for emergency repairs; however indicated on cross that this is not a job requirement to take the truck home; more of a convenience. The company has a commercial lot.

In order to grant a variance, Petitioner must satisfy requirements for a variance pursuant to the zoning regulations and Cromwell v. Ward; property is unique in a manner that causes the regulations to impact disproportionately on that property and strict compliance would result in practical

RECEIVED  
MARCH 14 1997

Case No. 97-7-A Katherine A. Gerry Minutes of Deliberation

difficulty and unreasonable hardship. No evidence or testimony that the property is unique from the others in the neighborhood in a way that would cause the zoning regulations in this regard to impact disproportionately on her. As to practical difficulty or unreasonable hardship, her son uses the truck on the job; sometimes nights and weekends. But the company has a lot for vehicles; truck taken home for convenience and not necessity.

I think we need to make it clear in light of future cases which is the front or the rear. Unfortunately, the zoning regulations offer no definition of front and rear either in relation to the street or waterfront in relation to the water.

In my research, I found that this Board believes that waterfront homes face the water and the rear yard the street, as people value the waterfront view and treat the water side as the front yard, because of the view. I found Case No. 93-393-SPH (Jordan) which concerned property fronting on the Chesapeake Bay. In that Opinion, the Board found that an accessory structure facing the water was in the front yard.

In parking in the yard facing the street, he is parking in the rear yard. So he is not parking in the front yard. However, he is in violation of the regulation which limits advertising on the truck. In regard to this latter section, Petitioner has failed to meet the burden of proof, and I would therefore deny the Petition for Variance.

MW: I would completely concur with Ms. Levero's discussion. Rather than go over it again, I think the issue, she explained the issue very well. I would only point to a more recent case relative to the front and rear yard issue -- a case which was decided in July 1996 and in fact this case -- Case No. 96-104-A -- in this case, the opinion states:

...the waterfront characteristics of the property impact what is the front...designated as that side which has frontage on a public road...most buildings are oriented toward the public road. However, waterfront property is unique in that homes are oriented away from the street. This Zoning Commissioner, as well as the Board of Appeals, has consistently held that the front of waterfront property is the side that faces the water. [loosely quoted]

Indeed, the truck is being parked in what is the rear yard. And therefore, the problem of having a variance to park in the front yard is not a point here. It's a moot situation.

Case No. 97-7-A Katherine A. Gerry Minutes of Deliberation

However, I also agree with her that in 431 the Petitioner is violating that section which states no advertising other than lettering on driver's door or passenger's side front door.

KKH: We do have concurrence. I agree with my colleagues that the first threshold cannot be satisfied in this case. In variance cases there does need to be a showing that the property is unique in a way relevant to what we are discussing today -- the parking issue. No testimony in that regard. I believe even if it had been attempted to prove, I doubt any would have existed to prove unique.

Were we to go on to the second prong and somehow determine it was unique, and go on to the second prong, there was no showing of practical difficulty. There was a showing of convenience, but no difficulty.

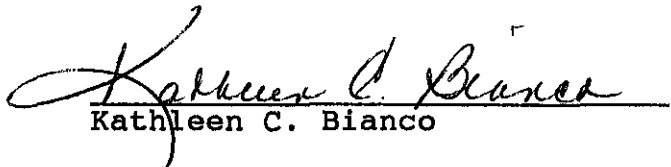
Were we to go on nevertheless and determine the case is ripe for variance consideration because it satisfied 307.1, I think I'm hearing all of us say that when you examine the standard to determine if it can be granted, there is an obvious failure to satisfy 431.

Regarding rear yard issue, most of case law from the Board, as well as on appeal, does seem to suggest that the front yard is the side facing the water, and so parking the vehicle where it is presently parked would, at least in this Board's view, constitute parking in the rear yard as case law stands. We did not view 431 as an obstacle in this case. We are all in agreement with that.

Accordingly, we will be issuing an Order denying the variance from 431B and the vehicle will not be permitted to park at the residence. Today is not the day from which to file an appeal, however. I believe we discussed this at the hearing. You will have 30 days from the date of the written Opinion if you feel aggrieved.

\*\*\*\*\*

Respectfully submitted,

  
Kathleen C. Bianco

Case No. 97-7-A

VAR -To allow commercial vehicle with advertising  
to be parked in front yard

8/07/96 -Zoning Commissioner's Order in which  
Petition for Variance was GRANTED.

---

12/11/96 -Notice of Assignment for hearing scheduled for Thursday,  
February 20, 1997 at 10:00 a.m. sent to following:

Appellant /Protestant:	Mark A. Guelta
Petitioner	: Katherine A. Gerry
People's Counsel for Baltimore County	
Pat Keller	Arnold Jablon, Director /PDM
Lawrence E. Schmidt	Virginia W. Barnhart, Co Atty

---

2/18/97 -Entry of Appearance on behalf of Appellant /Protestant - Francis X.  
Borgerding, Jr., Esquire

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2/20/97 -Hearing concluded before the Board (KWM); notice of deliberation to  
sent and deliberation scheduled.

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2/21/97 -Notice of Deliberation sent to parties (and copies to K.W.M.);  
scheduled for Thursday, March 13, 1997 at 9:30 a.m.

---

3/13/97 -Deliberation concluded; petition for variance DENIED; written  
Opinion/Order to be issued by Board; appellate period to run from date  
of written Order, and not today's date. (KWM)

**FRANCIS X. BORGERDING, JR.**

*Attorney at Law*

MERCANTILE BUILDING - SUITE 600  
409 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 296-6820  
FAX (410) 296-6884

*Member of Maryland and  
District of Columbia Bar*

February 18, 1997

Clerk  
County Board of Appeals  
of Baltimore County  
Old Courthouse, Room 49  
400 Washington Avenue  
Towson, Maryland 21204

RE: Case No.: 97-7-A  
In the Matter of Katherine A. Gerry, Petitioner  
(4834 Stevens Road)  
Hearing Date: Thursday, February 20, 1997 @ 10:00 A.M.

Dear Clerk:

Please enter my appearance on behalf of Protestant, Mr. and Mrs. Mark A. Guelta, in regard to the above-referenced case set for hearing on Thursday, February 20, 1997, at 10:00 A.M.

Very truly yours,



FRANCIS X. BORGERDING, JR.

FXBJr:bjk  
cc: Ms. Katherine A. Gerry



Mark A. Guelte  
5832 Stevens Rd  
White Marsh MD 21162

Appeal filed at County  
Counter. 1:45 PM on  
8/30/96 JAG  
\$175.00 Fee Paid.

30 August 1996

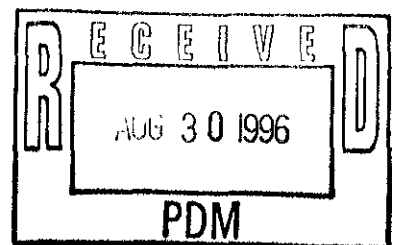
Arnold Tablon, Director  
Baltimore County Department of  
Permits and Development Management  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Zoning Case No. 97-7-A  
Petition for Zoning Variance

Dear Mr. Tablon:

Please treat this as a notice of an appeal to the  
Board of Appeals being filed in the above-referenced case.  
Enclosed is a check to cover cost of same. Please see that all  
future notices and communications regarding this case be  
sent to the undersigned.

Very Truly Yours  
Mark A. Guelte  
Mark A. Guelte





against me. Please protect the children and residents from such incidents by keeping that truck out.

2. Community integrity. There are some very nice homes in our community. Many have been recently rebuilt or remodeled. It is unfair to the residents who are trying to improve homes and the community to have such an eyesore parked in plain view of their homes. Our community is a quiet residential area. The huge Caplan glass truck that Mr. Gerry brings in is purely commercial. It is in essence a billboard on wheels. Its intentionally painted bright red to draw attention to itself and its big bold advertisement. The truck's presence in no way serves any of the needs of the community. Its only use is to bring in the extra money Mr. Gerry gets for parking it there. The fact that Mr. Gerry, and his truck, are on 24 hour call means that Caplan Glass is in essence establishing a satellite service terminal so they can more quickly respond to business in our area.

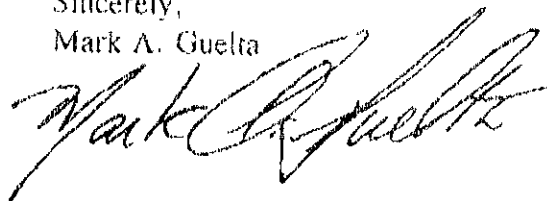
The presence of this commercial vehicle in the neighborhood will reduce the value of the homes for sale in the area. I have put a lot of money into my home, I don't want Mr. Gerry's truck diminishing its resale value. In the event he is allowed to park the truck, I will certainly appeal to have my property taxes lowered as a result.

3. The potential for further violations. Since Mrs. Gerry's dependents have grown and moved out she has quietly turned her house into three apartments. She leases the apartments in the basement and on the second floor. Wayne Gerry Jr. rents the 2nd floor apartment, thus he doesn't even pay any property taxes. There are now three adult men who work for Caplan Glass living at her residence. On numerous occasions there have been multiple Caplan trucks parked at her home for evenings and weekends. I have enclosed a photo of two unsightly glass trucks in her driveway. Caplan Glass offers pay incentives employees on 24 hour call who can park trucks at their homes. If permission is granted to park one truck in the yard then why not another. They are already one over the limit. If the Gerry's are allowed to park trucks in their yard for extra money, then so should others. It would be unfair to others who would like to profit from renting space to commercial vehicles. I have space in my yard for several. You cannot start a trend. All commercial vehicles need to be kept out of the neighborhood.

4. The ability to be on call is not a requirement of Mr. Gerry's employment. He has been at Caplan for nearly 10 years. Only in recent years has he been on call. Supposedly being on 24 hour call is for emergency response. To me, firefighters, police and rescue workers respond to emergencies. I cannot imagine an emergency response for a custom mirror installation, Mr. Gerry's specialty.

I appreciate the opportunity to voice my opposition to this variance. I hope you consider my concerns while making your decision. Be advised that I am not the only member of the community opposed to this variance, but I am the only one willing to go on record. Since I live closest to the Gerry's I have the largest stake in this matter.

Sincerely,  
Mark A. Gueltra



ENCLOSURE

*Del. 8/13/96*

Mr. & Mrs. Mary G. Gable  
5532 Stevens Road  
Guthrie, Maryland 21102

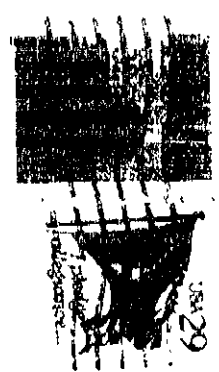
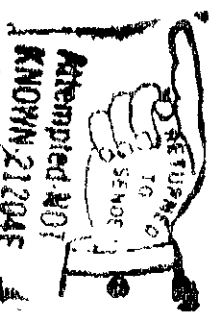
Zoning Commission

401 Washington Avenue

Rm 113

Towson

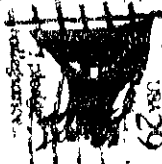
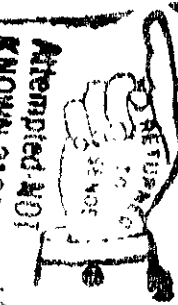
MD 21204

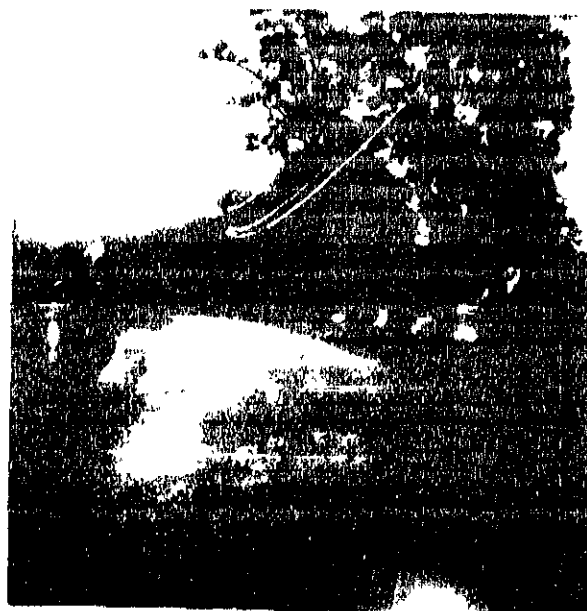
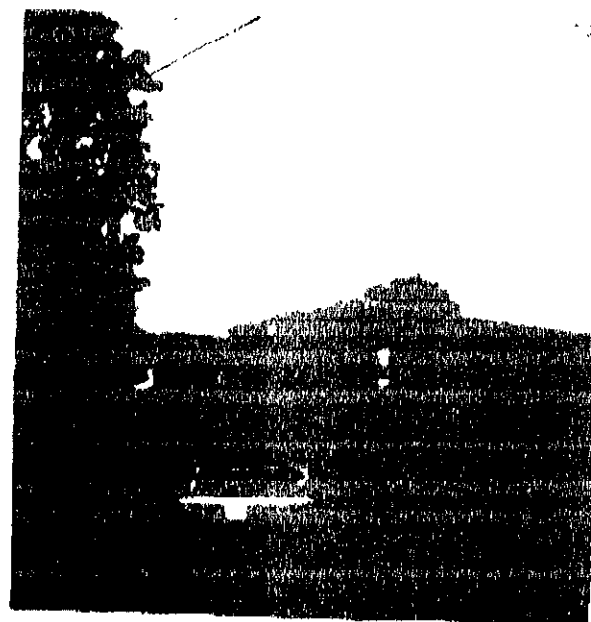
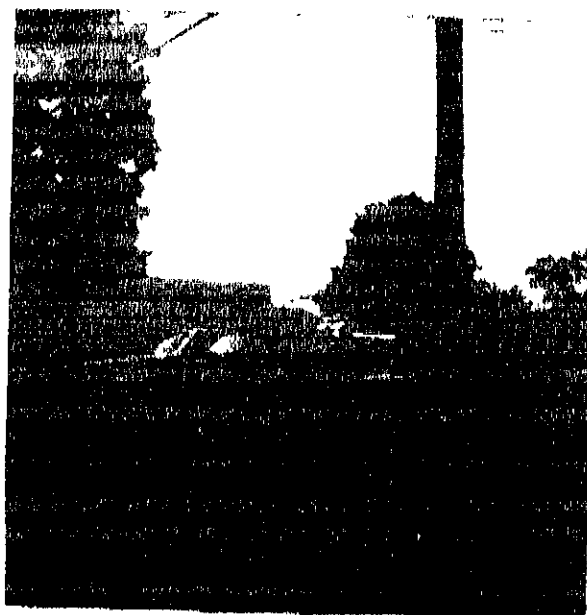


*Del pny*

Mr. & Mrs. Mary Gable  
2832 Stevens Road  
Pikesville, Maryland 21112

Zoning Commission  
401 Washington Avenue  
Rm 113  
Towson  
MD 21204





## PETITION

By signing below, you hereby understand with full cooperation that I, Wayne Gerry Jr., is on call 24 hours for emergency board up/installations for Caplan Brothers, Inc., therefore the vehicle will be parked in front of my house in the development.

Your signature states that you have fully considered the above and do not have any problem with the vehicle being in our development.

Thanking you for your cooperation and prompt attention in this matter.

Harold Lorraine Scott	Jean Augustyniak	
5823 STEVENS Rd White Marsh Md. 21162	5822 Stevens Rd	
Richard & Barbara Craven	John Augustyniak	
5828 Stevens Rd	5822 Stevens Rd	
Robert Cow	Myrtle Emory Warragin	
5831 STEVENS Rd.	11200 Beach Rd. 21162	
ERIC R. BRAGG	Frank Bunch Jr	
11205 BEACH ROAD	5820 STEVENS Rd White Marsh Md.	
JERRY O'NEAL		
11204 BEACH RD.		
HARRY C. STENGEL III		
5836 STEVENS Rd.		
Niles Jones		
11201 Beach Rd		

7

Mark A. Guelta  
5832 Stevens Road  
White Marsh MD 21162

Prot. Ex. 3

24 July 1996

Zoning Commissioner  
401 Washington Avenue  
Rm. 113  
Towson MD 21204

CASE: 97-7-A

Zoning Commissioner,

I writing to express my opposition to Zoning Case 97-7-A, request for a variance to permit parking of a commercial vehicle with advertising at 5834 Stevens Rd, White Marsh MD 21162. I have lived next to the Gerry residence for about 14 years. During that time I have been friends with the Gerry's, they are likable, personable and normally pleasant. They are generally liked by there near neighbors. One of my few complaints with them is their seeming lack of concern for impositions they often cause on their near neighbors. One such imposition is the parking of commercial vehicle and other vehicles in their yard and on the street. An event that elevated my unhappiness with the vehicle parking situation occurred recently is the near hitting of one of their children with my vehicle. My other reasons for opposing the parking of the "Caplan" glass truck follow:

1. Safety. As mentioned I nearly hit Wayne Gerry Jr.'s youngest son Steven with my truck when he came darting into the street from his yard. The Gerry's parking lot is small and close to the road. Whenever the Caplan truck is parked in the yard it creates a huge blind spot for oncoming traffic. That is, any child or pedestrian that is entering the street from the Gerry yard is blind to any oncoming vehicles as are drivers of the vehicles to pedestrians or other vehicles coming on to the road. There is no room in the Gerry's small yard to get the truck off the road or out of sight. Upon speaking to Mr. Gerry about the incident I got the impression that he was not very concerned about the danger the glass truck represented but more about the potential overtime he may lose if not allowed to bring the truck home. This lack of concern is apparent in that he continues to this day to park the truck in his driveway only inches off the street near the zoning appeal sign in defiance of the zoning laws he knows he is breaking. My thought was that if he cares so little for the safety of his own son he's going to care less about my son or the other kids in the neighborhood.

Since we live on a quiet street it is a popular place for the neighborhood kids to play. Children often run or ride bikes in and out of the Gerry yard into the street or across the street to the neighbors yard. There is so much child traffic that the neighbor across the street recently installed a gate to allow kids to pass back and forth. This increases the chance for a child to dart into the path of oncoming from behind the Caplan glass truck. The Caplan truck has no place in a quiet residential neighborhood. If I had hit Wayne's son with my truck I would have been emotionally sick over the incident and am certain the incident would have resulted in law suits



against me. Please protect the children and residents from such incidents by keeping that truck out.

2. Community Integrity. There are some very nice homes in our community. Many have been recently rebuilt or remodeled. It is unfair to the residents who are trying to improve homes and the community to have such an eyesore parked in plain view of their homes. Our community is a quiet residential area. The huge Caplan glass truck that Mr. Gerry brings in is purely commercial. It is in essence a billboard on wheels. Its intentionally painted bright red to draw attention to itself and its big bold advertisement. The trucks presence in no way serves any of the needs of the community. Its only use is to bring in the extra money Mr. Gerry gets for parking it there. The fact that Mr. Gerry, and his truck, are on 24 hour call means that Caplan Glass is in essence establishing a satellite service terminal so they can more quickly respond to business in our area.

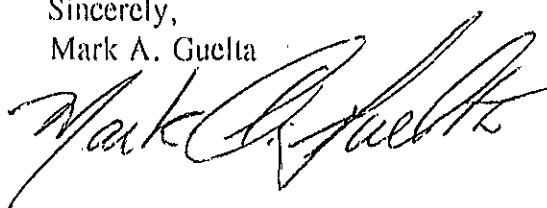
The presence of this commercial vehicle in the neighborhood will reduce the value of the homes for sale in the area. I have put a lot of money into my home, I don't want Mr. Gerry's truck diminishing its resale value. In the event he is allowed to park the truck, I will certainly appeal to have my property taxes lowered as a result.

3. The potential for further violations. Since Mrs. Gerry's dependents have grown and moved out she has quietly turned her house into three apartments. She leases the apartments in the basement and on the second floor. Wayne Gerry Jr. rents the 2nd floor apartment, thus he doesn't even pay any property taxes. There are now three adult men who work for Caplan Glass living at her residence. On numerous occasions there have been multiple Caplan trucks parked at her home for evenings and weekends. I have enclosed a photo of two unsightly glass trucks in her driveway. Caplan Glass offers pay incentives employees on 24 hour call who can park trucks at their homes. If permission is granted to park one truck in the yard then why not another. They are already one over the limit. If the Gerry's are allowed to park trucks in their yard for extra money, then so should others. It would be unfair to others who would like to profit from renting space to commercial vehicles. I have space in my yard for several. You cannot start a trend. All commercial vehicles need to be kept out of the neighborhood.

4. The ability to be on call is not a requirement of Mr. Gerry's employment. He has been at Caplan for nearly 10 years. Only in recent years has he been on call. Supposedly being on 24 hour call is for emergency response. To me, firefighters, police and rescue workers respond to emergencies, I cannot imagine an emergency response for a custom mirror installation, Mr. Gerry's specialty.

I appreciate the opportunity to voice my opposition to this variance. I hope you consider my concerns while making your decision. Be advised that I am not the only member of the community opposed to this variance, but I am the only one willing to go on record. Since I live closest to the Gerry's I have the largest stake in this matter.

Sincerely,  
Mark A. Guelta



19 September 1996

Chairman of Zoning Board of Appeals  
400 Washington Avenue, Rm. 49  
Towson, MD 21204

RE: Case 97-7-A, Petition for Variance to allow parking of a commercial Vehicle.

To Chairman,

We the residents, listed below, of the Bowerman/Loreley Beach Community are opposed to the granting of a zoning variance that would allow parking of a commercial vehicle owned by Caplan Glass Co. at 5834 Stevens Rd, as proposed in case 97-7-A, "Petition for variance to allow parking of a commercial vehicle". We feel that the presence of the commercial vehicle represents an unnecessary safety hazard for the families and the children of the area. We understand that there have been several near accidents involving child pedestrians as a result of the trucks presence. The Caplan truck also detracts from the aesthetic beauty of our community, a value that our community association has been working to improve. We also see the presence of the truck as an attempt by Caplan Glass Co. to establish a satellite service facility in our community and for these reasons are opposed to the granting of the above mentioned variance.

Mark A. Fultz

5832 STEVENS RD

Sydney D. Bragg

11205 Beach Rd.

Louise Offield

11205 Beach Rd.

J. H. H.

5841 Loreley Beach

Rose Moore  
5830 Stevens Rd.  
Bruce P. Curry

5819 Stevens Rd.

Grace A. Jones

5807 Stevens Rd

Eric J. J.

11212 Beach Rd

Anita Robinson

11302 Beach Rd

# Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 5834 STEVENS RD.

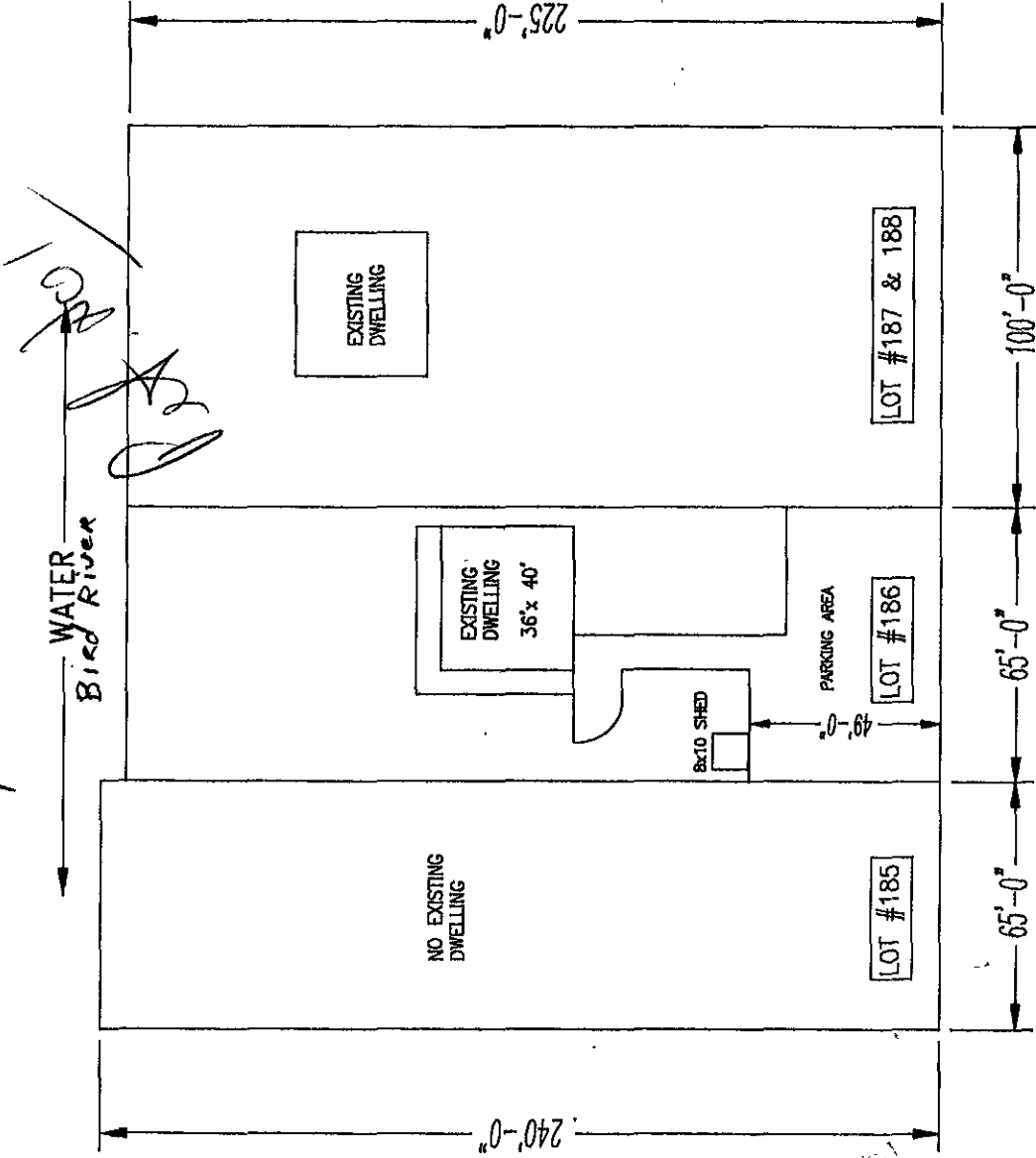
Subdivision name: BIRD RIVER BEACH

plat book# 7, folio# 187, lot# 186, section# --

OWNER: Katherine Greer

see pages 5 & 6 of the CHECKLIST for additional required information

97-7-A

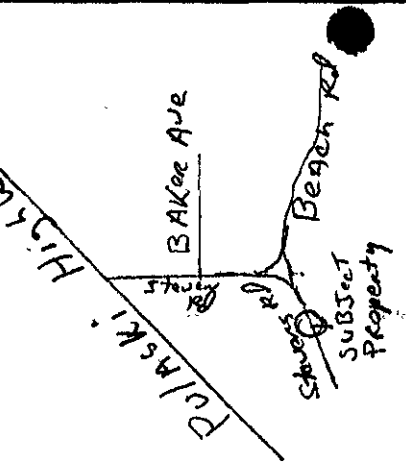


NORTH

date: 6/25/96

prepared by: JZ

Scale of Drawing: 1" = 50'



VICINITY MAP  
NORTH scale: 1" = 1000'

## LOCATION INFORMATION

Election District: 11

Councilmanic District: 5

1"=200' scale map# ~~1350~~ NE9T

Zoning: RC-2

Lot size: 15,310  $\pm$  acreage square feet

public works  
SEWER: ☐  
WATER: ☐  
yes no

Chesapeake Bay Critical Area:  
Prior Zoning Hearings:

Zoning Office USE ONLY!  
reviewed by: ITEM # CASE#

July 7

Petitions  
 # 1A & 1B } 2 photos  
 97-4-A  
 Perry

*[Faint handwritten signature]*



County Court of Appeals  
Room 219, Court House  
Towson, Maryland 21204

*Greene*

1A-1B-1C

2A → 2H

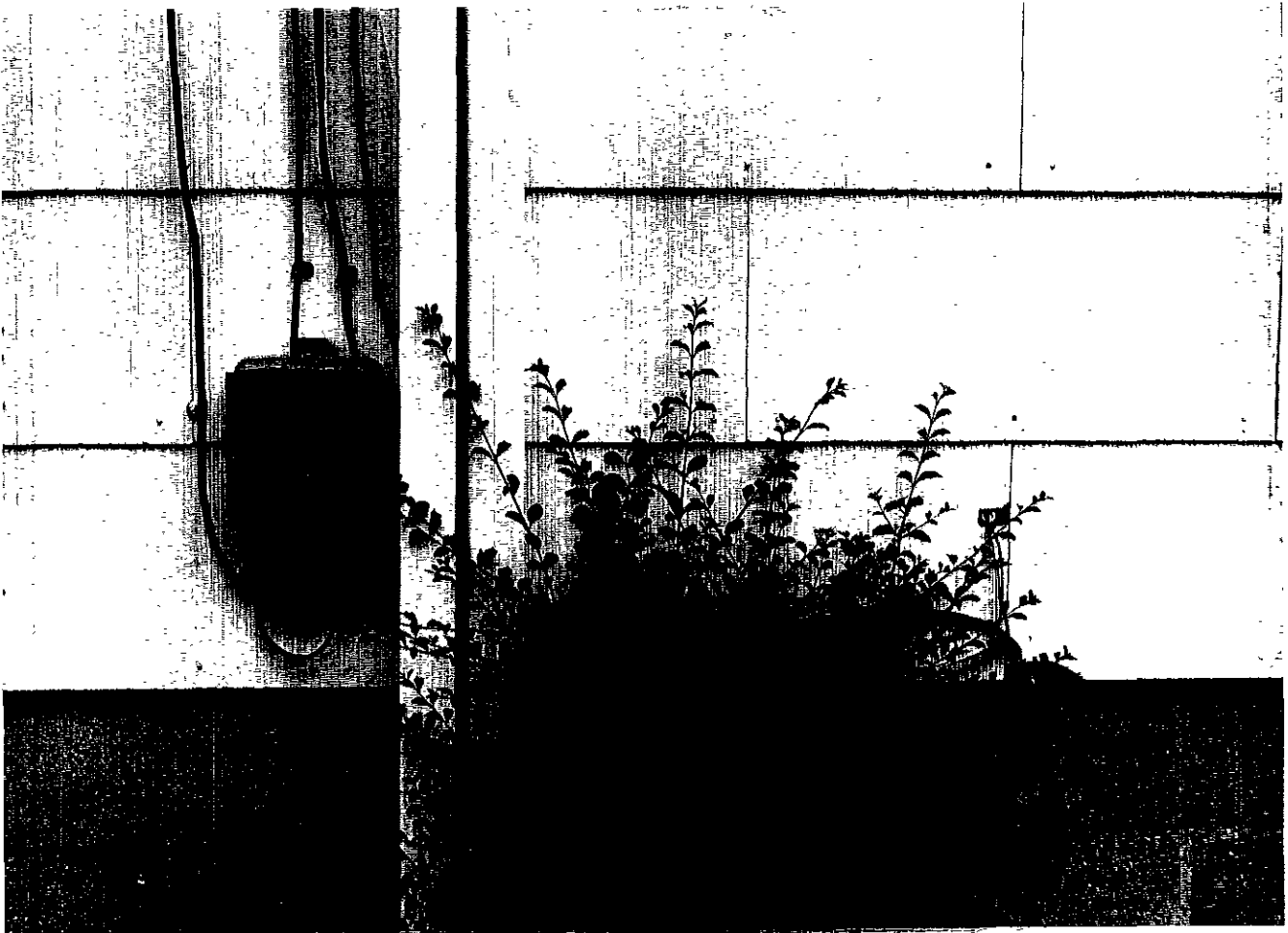
5A → 5H

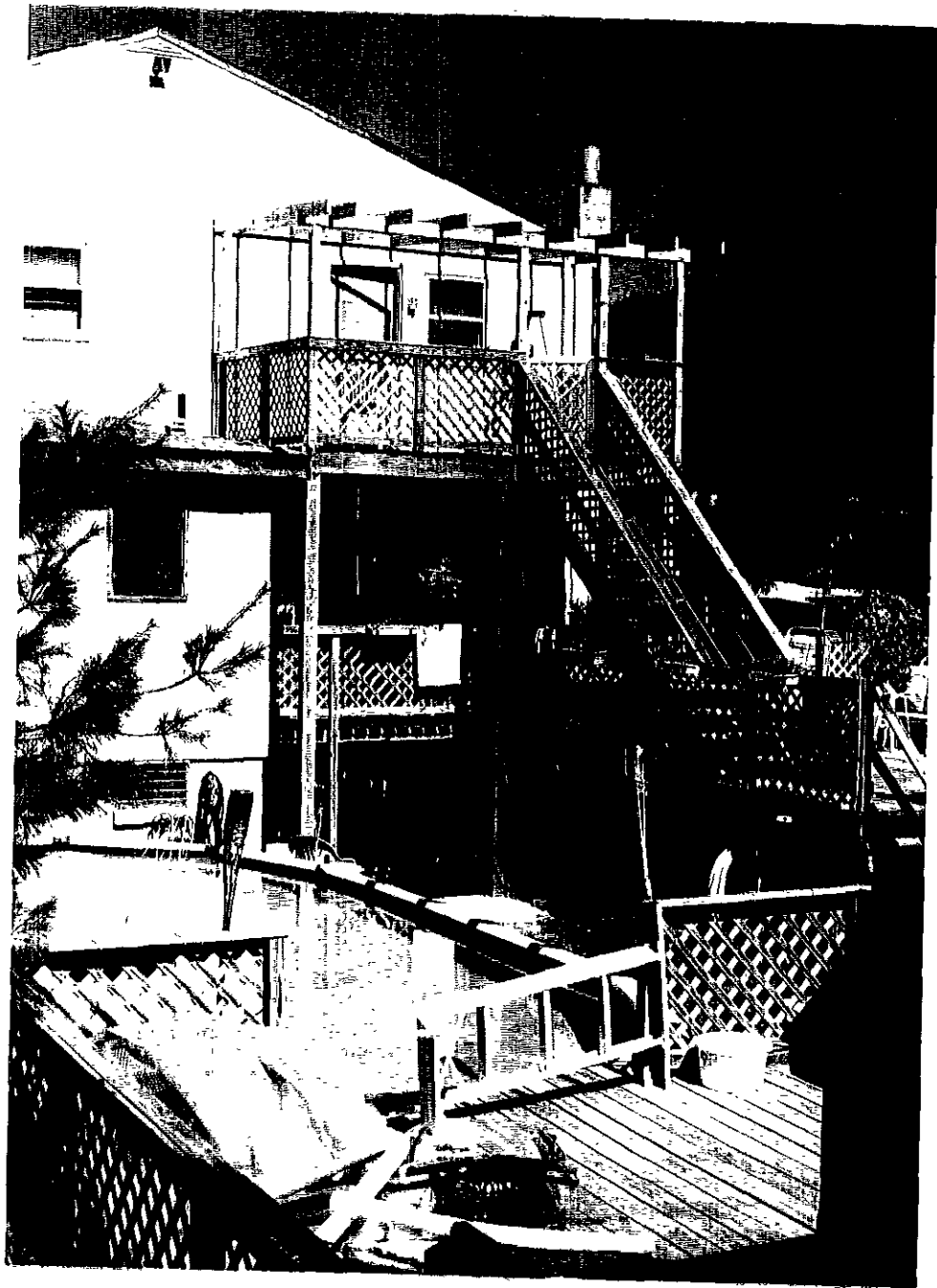
20 plates

97-7-A

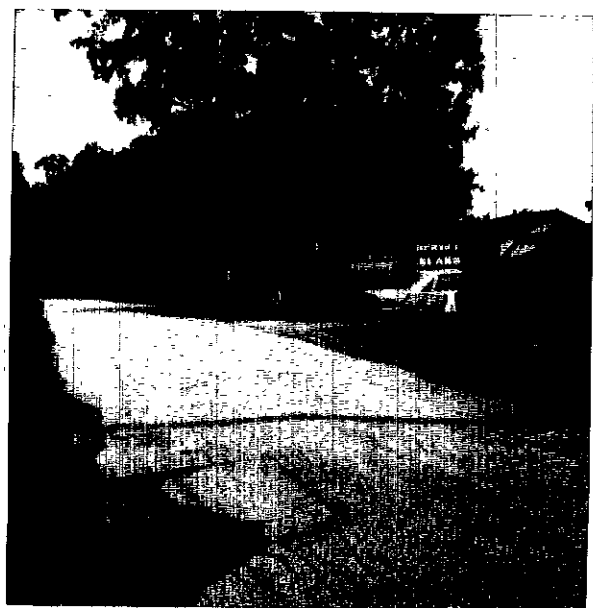
*Sherry*

*RECEIVED*









Prot. 2B



Prot 5G



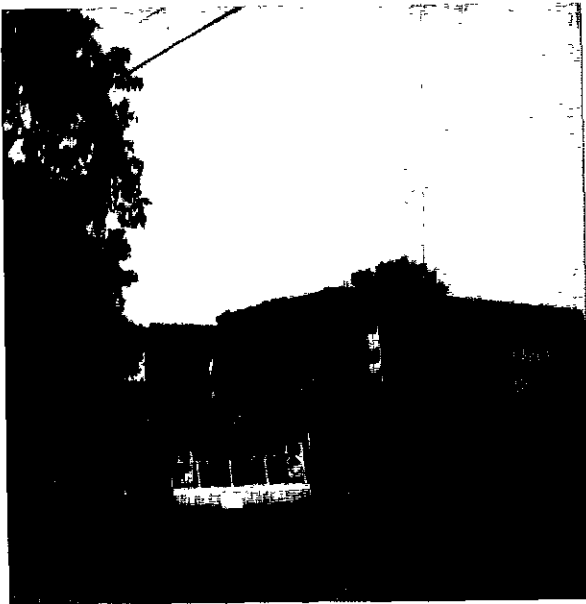
Prot. 5H








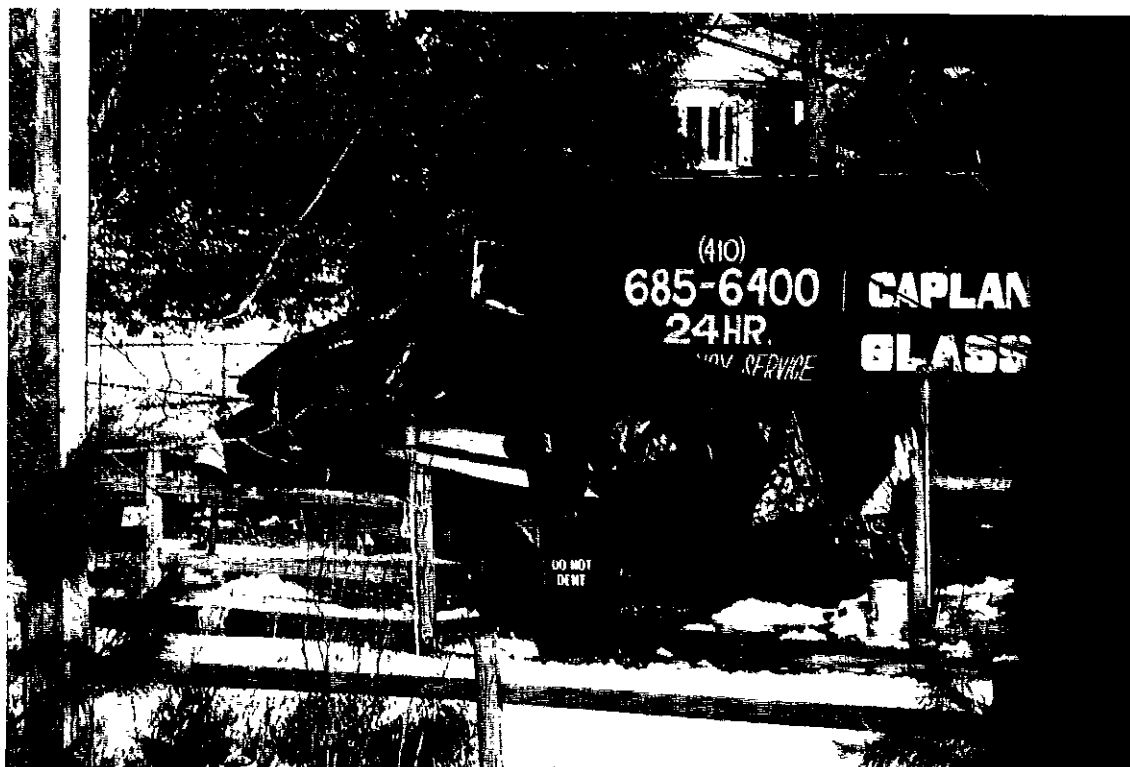




Prot. 4 









IN THE MATTER OF  
THE APPLICATION OF  
KATHERINE A. GERRY  
FOR VARIANCE ON PROPERTY  
LOCATED ON THE SOUTH SIDE OF  
STEVENS ROAD, 120' WEST OF  
CENTERLINE CORELEY BEACH  
ROAD (5834 STEVENS ROAD)  
11TH ELECTION DISTRICT  
5TH COUNCILMANIC DISTRICT

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO. 97-7-A

\* \* \* \* \*

### OPINION

This case comes before the Board on appeal from a decision of the Zoning Commissioner dated August 7, 1996, granting a Variance from Section 431.B.3.b.c of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property.

Appearing and testifying as a Protestant in the matter was Mark A. Guelta, who was represented by Francis X. Borgerding, Jr., Esquire. The Petitioner, Katherine A. Gerry, who was not represented by counsel, appeared and testified in her own behalf.

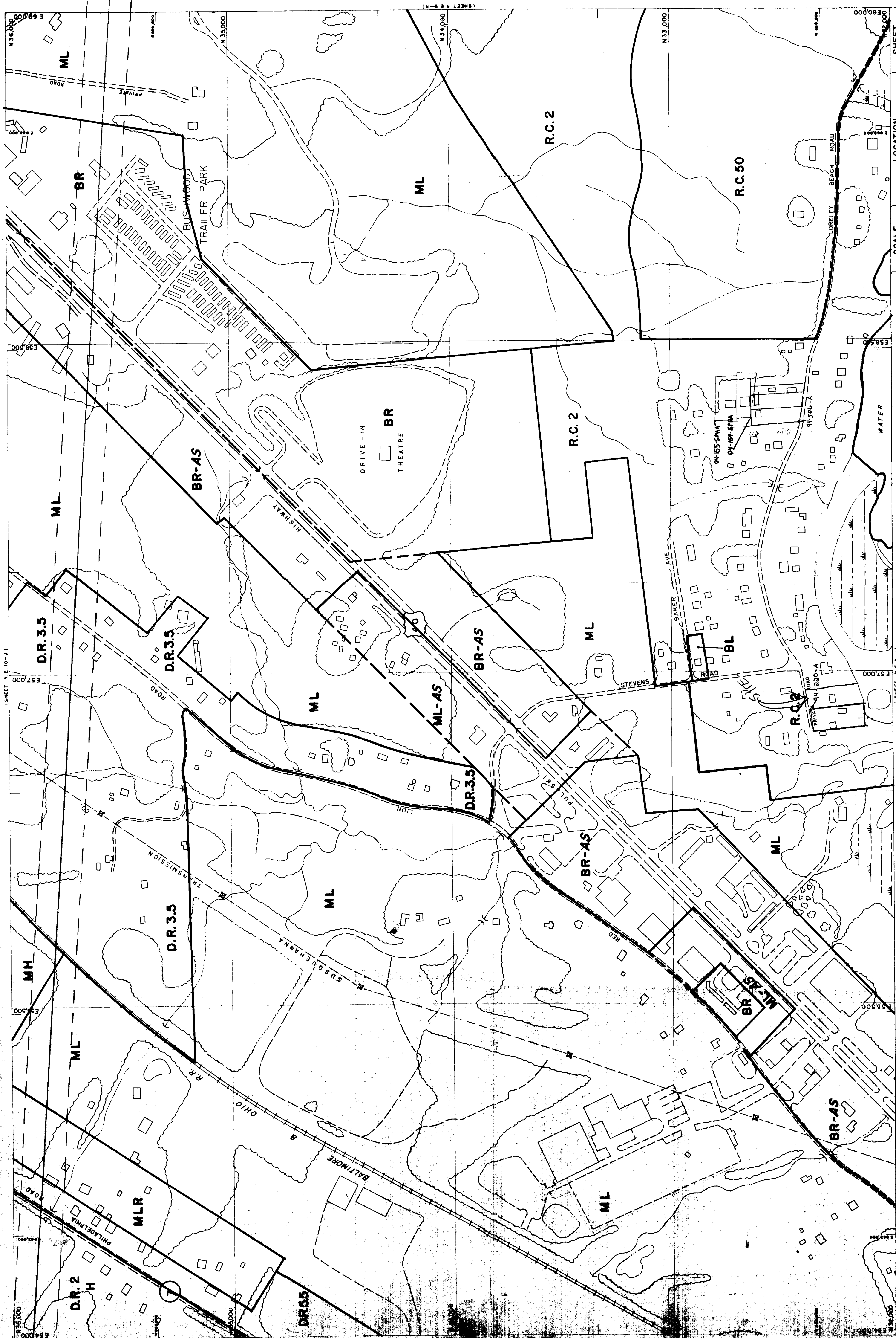
Based on the testimony and evidence presented as exhibits, the Board finds the following facts. The subject property, at 5834 Stevens Road in White Marsh, is a waterfront home located on Bird River and zoned R.C.2. Wayne Gerry, Jr., the son of the Petitioner, lives with her. He is employed by the Caplan Glass Company and parks a company truck, which he uses on the job, on the subject property, in the yard abutting the road, when he is not working.

Mr. Guelta, who lives next door to the Petitioner, opposes the granting of the Variance for safety reasons. He testified that children run and ride out into the narrow street from behind the truck without looking, and that he once nearly hit Mr. Gerry, Jr.'s young son when the boy ran out from behind the truck. He also objects to the Variance on the grounds that the truck may detract from property values if allowed to be parked near the street.

Bernie Steinharter, vice-president of Caplan Brothers, testified that Mr. Gerry, Jr., uses the truck for emergency repairs, which can occur at night and on weekends. However, Mr. Steinharter conceded on cross-examination that it is not a job requirement for Mr. Gerry to take the truck home, but more of a convenience, as the company has a commercial parking lot at 700 West Hamburg Street.



97-7-A



<b>BALTIMORE COUNTY</b>		<b>LOCATION</b>		<b>SHEET</b>
<b>OFFICE OF PLANNING AND ZONING</b>		<b>LORELEY WHITEMARSH AREA</b>		<b>N.E.</b>
<b>OFFICIAL ZONING MAP</b>		<b>SCALE</b>		<b>9-J</b>
<b>1992 COMPREHENSIVE ZONING MAP</b>		<b>1" = 200'</b>		
<b>Adopted by the Baltimore County Council</b>		<b>DATE</b>		
<b>Oct. 15, 1992</b>		<b>OF</b>		
<b>REV. AS PER BILL NO. 175-94</b>		<b>EFFECTIVE</b>		
<b>1-1-95</b>		<b>PHOTOGRAPHY</b>		
<b>January 1986</b>		<b>1-1-95</b>		
<b>Chairman, County Council</b>		<b>Chairman, County Council</b>		

M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.  
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS  
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210



IN THE MATTER OF  
THE APPLICATION OF  
KATHERINE A. GERRY  
FOR VARIANCE ON PROPERTY  
LOCATED ON THE SOUTH SIDE OF  
STEVENS ROAD, 120' WEST OF  
CENTERLINE CORELEY BEACH  
ROAD (5834 STEVENS ROAD)  
11TH ELECTION DISTRICT  
5TH COUNCILMANIC DISTRICT

#### OPINION

This case comes before the Board on appeal from a decision of the Zoning Commissioner dated August 7, 1996, granting a Variance from Section 431.B.3.b.c of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property.

Appearing and testifying as a Protestant in the matter was Mark A. Guelta, who was represented by Francis X. Borgerding, Jr., Esquire. The Petitioner, Katherine A. Gerry, who was not represented by counsel, appeared and testified in her own behalf.

Based on the testimony and evidence presented as exhibits, the Board finds the following facts. The subject property, at 5834 Stevens Road in White Marsh, is a waterfront home located on Bird River and zoned R.C.2. Wayne Gerry, Jr., the son of the Petitioner, lives with her. He is employed by the Caplan Glass Company and parks a company truck, which he uses on the job, on the subject property, in the yard abutting the road, when he is not working.

Mr. Guelta, who lives next door to the Petitioner, opposes the granting of the Variance for safety reasons. He testified that children run and ride out into the narrow street from behind the truck without looking, and that he once nearly hit Mr. Gerry, Jr.'s young son when the boy ran out from behind the truck. He also objects to the Variance on the grounds that the truck may detract from property values if allowed to be parked near the street.

Bernie Steinharter, vice-president of Caplan Brothers, testified that Mr. Gerry, Jr. uses the truck for emergency repairs, which can occur at night and on weekends. However, Mr. Steinharter conceded on cross-examination that it is not a job requirement for Mr. Gerry to take the truck home, but more of a convenience, as the company has a commercial parking lot at 700 West Hamburg Street.

Case No. 97-7-A Katherine A. Gerry

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The granting of variances is governed by Section 307.1 of the BCZR which provides, in relevant part, that variances may be granted

only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance... would result in practical difficulty or unreasonable hardship.

The Court of Special Appeals, in Cromwell v. Ward, 102 Md. App. 691 (1995), has construed this regulation to mean that obtaining a variance is basically a two-step process. The first step requires a finding that the subject property is unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. The second step requires a finding that denial of the requested variance would result in practical difficulty or unreasonable hardship.

Cromwell v. Ward states that "Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship."

The Petitioner failed to present any testimony or evidence to this Board showing that the subject site possessed any peculiar, unusual or unique factors when compared to other properties in the neighborhood such that the requirements of Section 431 of the BCZR, governing the parking of commercial vehicles on residential property, would impact disproportionately upon her property.

Thus, the first step of the variance process was not met, and the practical difficulty or unreasonable hardship requirement cannot be properly considered.

However, even assuming, for the sake of argument, that the property meets the requirement of uniqueness, the Petitioner failed to produce convincing evidence of practical difficulty or unreasonable hardship.

The Petitioner's son uses the truck on his job, which sometimes includes night or weekend work. But the company has a parking lot for its vehicles, and the testimony of Mr. Steinharter shows that Mr. Gerry takes the truck home as a matter of convenience.

The Petitioner is seeking relief from Section 431.B.3, which requires that any commercial vehicle parked on residential property must be parked within a fully enclosed structure; if not, it

Case No. 97-7-A Katherine A. Gerry

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may not display any advertising except on the driver's door or front seat passenger's door (Section 431.B.3.b); and that the vehicle shall be parked in a side or rear yard (Section 431.B.3.c).

It is therefore necessary to determine what is the rear yard and what is the front yard of the subject property, which is a waterfront home. Baltimore County Zoning Regulations offer no definitions of front and rear yards in relation to the street, or, if a waterfront property, in relation to the water. However, this Board has found in past cases that waterfront homes are considered to have their front yards facing the water and their rear yards abutting the street, since people with homes on the water generally treat the yard facing the water as their front yard because of its view.

As an example, in Case No. 93-393-SPH, William P. Jordan, which concerned a property fronting on the Chesapeake Bay, the Board said that an enclosed structure in the yard facing the water was in the front yard.

The Zoning Commissioner, in Case No. 96-104-A, Joseph G. Bittle, Jr., et ux, stated: "This Zoning Commissioner, as well as the Board of Appeals, has consistently held that the front of waterfront property is that side of the site which faces the water."

In the instant case, the truck in question is being parked in the yard abutting the road. The Board finds that because the subject property is a waterfront property, the truck is being parked in the rear yard, and thus no variance is needed from Section 431.B.3.c.

The Petitioner does need a variance from Section 431.B.3.b, however. Photographs submitted by the Protestant show advertising across the entire side of the truck (Protestant's Exhibits 2A, 2B, 2D, 4 and 5E).

The Board finds that the Petitioner has failed to satisfy the requirements of Section 307.1 and will therefore deny her Petition for Variance from Section 431.B.3.b.

#### ORDER

IT IS THEREFORE this 11th day of April, 1997, by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from Section 431.B.3.b.c of

Case No. 97-7-A Katherine A. Gerry

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the Baltimore County Zoning Regulations to allow a commercial vehicle with advertising to be parked in the front yard of the subject property be and is hereby DENIED; and it is further

ORDERED that the subject commercial vehicle shall be removed within 30 days from the date of this Order.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

Kristine K. Howanski, Acting Chairman  
Margaret Weirall

S. Diane Levero



#### County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

April 11, 1997

Francis X. Borgerding, Jr., Esquire  
DINENNA AND BRESCHI  
Suite 600  
Mercantile-Towson Building  
409 Washington Avenue  
Towson, MD 21204

RE: Case No. 97-7-A  
Katherine A. Gerry -Petitioner

Dear Mr. Borgerding:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco  
Legal Administrator

encl.

cc: Mr. Mark A. Guelta  
Ms. Katherine A. Gerry  
People's Counsel for Baltimore County  
Lawrence E. Schmidt  
Arnold Jablon, Director /PDM  
Virginia W. Barnhart, County Attorney

IN RE: PETITION FOR ZONING VARIANCE \* BEFORE THE  
3/5 Stevens Road, 120 ft. W \* ZONING COMMISSIONER  
Of c/l Coreley Beach Road \*  
5834 Stevens Road \*  
11th Election District \*  
5th Councilmanic District \*  
Katherine A. Gerry \*  
Petitioner \*  
\*\*\*\*\*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for the property located at 5834 Stevens Road in White Marsh. The Petition is filed by Katherine A. Gerry, property owner. Variance relief is requested from Section 431.B.3.b.c. of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property. The subject property and requested relief is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

Appearing at the public hearing held for this case was Katherine A. Gerry, property owner, and her son, Wayne Gerry, Jr. There were no Protestants or other interested persons present.

Testimony and evidence offered was that the subject property is approximately 1/3 of an acre in area, zoned R.C.2. The property is located on Stevens Road in White Marsh, not far from Pulaski Highway (U.S. Route 40). Mrs. Gerry indicated that she has owned the subject property for many years and that the property has been in her family for several generations. Her son, Wayne Gerry, Jr., is employed by the Caplan Glass Company, and has so been employed for approximately 11 years. In fact, Mr. Gerry's father and grandfather have also worked for this company over the years.

In connection with that employment he drives a small step van vehicle. The vehicle advertises the Caplan Glass Company and is used to transport tools and glass products to various job locations. Mr. Gerry indicated that he drives this truck in connection with his employment and indicates that he leaves the house each day at approximately 6:00 A.M. to make service calls throughout the metropolitan area. Routinely, he arrives home at approximately 7:00 P.M. The truck is kept on site during his off hours and overnight. As shown on the driveway, a paved parking area is located at the front of the property adjacent to Stevens Road. The Petitioner also produced a signed statement from a number of neighbors of the locale indicating support for this long standing use.

Based upon the testimony and evidence offered, I am persuaded to grant the Petition for Variance. I am convinced that the Petitioner has satisfied her burden under law. Moreover, the relief granted shall be restricted only to the subject truck now driven by Mr. Gerry, or similar replacement.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 7th day of August, 1996 that a variance from Section 431.B.3.b.c. of the Baltimore County Zoning Regulations (BCZR) to allow a commercial vehicle with advertising to be parked in the front yard of the subject property, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for

returning, said property to its original condition.

2. The relief granted herein shall be restricted solely to the Caplan Glass Company step van vehicle presently kept on the premises by Wayne Gerry, Jr., or a similar replacement. The relief granted will not allow parking of a larger vehicle on the premises.

Lawrence E. Schmidt  
Zoning Commissioner  
for Baltimore County

LES/mmm

ORDER RECEIVED FOR FILING  
Date 4/11/97  
By [Signature]



**Petition for Variance**  
to the Zoning Commissioner of Baltimore County  
for the property located at 5834 STEVENS RD.  
which is presently zoned RO-2

This Petition shall be filed with the Office of Zoning Administration & Development Management.  
The undersigned, legal owner(s) of the property estate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 14-51, B.3 b.c., B.C.2R TO PERMIT A COMMERCIAL VEHICLE WITH ADVERTISING TO BE PARKED IN THE FRONT YARD.  
My son needs this vehicle for his living, with out it he will be out of a job. And I will be out of a home, because he helps me maintain my home. This is a 24 hr. vehicle so he needs it handy @ all times.  
Property is to be posted and advertised as prescribed by Zoning Regulations.  
I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchase Name: \_\_\_\_\_  
Type of Petition: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Attorney for Petitioner: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
ESTIMATED LENGTH OF HEARING: \_\_\_\_\_  
Date of Hearing: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_ Date: 7-3-96

**EXAMPLE 3 - Zoning Description**

These copies of the zoning description of your property are required. This is a sample to help you with the description. DO NOT USE THIS FORM FOR FILING IN THE BLANK. Type or print the description on 8-1/2" x 11" paper. COPIES OF DEEDS CANNOT BE USED FOR THE DESCRIPTION. The zoning description must be in the following form:

ZONING DESCRIPTION FOR 5834 STEVENS RD.  
(address)  
Beginning at a point on the South (S) side of STEVENS RD. which is 201 (number of feet of right-of-way width) wide at the distance of 120 (number of feet) (north, south, east or west) centerline of the nearest improved intersecting street, COREY BEACH RD. (name of street) which is 20 (number of feet of right-of-way width) wide, "Being Lot # 186" (name of subdivision) Block 1 Section 5 in the subdivision of BIRD BEACH RD. (name of subdivision) as recorded in Baltimore County Plat Book # 7, Folio # 187 containing 15,310 (square feet or acres) Also known as 5834 STEVENS RD. (property address) and located in the 11 Election District, 5 Councilmanic District.

"If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber \_\_\_\_\_, Folio \_\_\_\_\_ and include the measurements and directions (notes and bounds only) here and on the plat in the correct location."  
Typical metes and bounds: N.87° 12' 13" E. 321.1 ft. S.18° 27' 03" E. 87.2 ft. S.62° 19' 00" W. 318 ft. and N.08° 15' 22" W. 80 ft. to the place of beginning.

Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

**ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES**

Baltimore County zoning regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

**PAYMENT WILL BE MADE AS FOLLOWS:**

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

**For newspaper advertising:**

Item No.: 7 Petitioner: KATHERINE GERRY

Location: 5834 STEVENS RD. WHITE MARSH, MD. 21162

**NAME FORWARD ADVERTISING BILL TO:**

NAME: SAME

ADDRESS: \_\_\_\_\_

PHONE NUMBER: 385-6508

**CERTIFICATE OF POSTING**

ZONING DEPARTMENT OF BALTIMORE COUNTY 97-7-A  
Towson, Maryland

District: 11th Date of Posting: 7/19/96

Posted for: Variance

Petitioner: Katherine A. Gerry

Location of property: 5834 STEVENS RD.

Location of Sign: Property boundary being zoned

Remarks: \_\_\_\_\_

Posted by: [Signature]

Date of return: 7/19/96

Number of Signs: 1

**CERTIFICATE OF PUBLICATION**

TOWSON, MD. 7/18, 1996

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/18, 1996.

THE JEFFERSONIAN,

A. Henricson  
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE & REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 8/30/96 ACCOUNT: RO016150

AMOUNT: \$ 175.00

RECEIVED FROM: GUELTA

FOR: Appeal of case # 97-7-A

03A21H0254H02H0 175.00

VALIDATION OR SIGNATURE OF CASHIER

DATE: 7-3-96 ACCOUNT: RO016150

AMOUNT: \$ 85.00

RECEIVED FROM: KATHERINE A. GERRY

FOR: 5834 STEVENS RD.

03A21H0254H02H0 85.00

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE & REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

DATE: 7-3-96 ACCOUNT: RO016150

AMOUNT: \$ 85.00

RECEIVED FROM: KATHERINE A. GERRY

FOR: 5834 STEVENS RD.

03A21H0254H02H0 85.00

VALIDATION OR SIGNATURE OF CASHIER

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-7-A (Item 7)  
5834 Stevens Road  
S/S Stevens Road, 120' W of c/l Corey Beach Road  
11th Election District - 5th Councilmanic  
Legal Owner(s): Katherine A. Gerry

Variance to permit a commercial vehicle with advertising to be parked in the front yard.

HEARING: FRIDAY, AUGUST 2, 1996 at 2:00 p.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

July 11, 1996

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Variance to permit a commercial vehicle with advertising to be parked in the front yard.

HEARING: FRIDAY, AUGUST 2, 1996 at 2:00 p.m. in Room 106, County Office Building.

Arnold Jablon  
Director

cc: Katherine A. Gerry

NOTES: (1) HEARING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

Hearing Room - Room 48  
Old Courthouse, 400 Washington Avenue

December 11, 1996

**NOTICE OF ASSIGNMENT**

CASE #: 97-7-A

IN MATTER OF: KATHERINE A. GERRY - Petitioner  
S/S Stevens Road, 120' W of c/l Corey Beach Road  
(5834 Stevens Road) 11th E; 5th C Districts

ASSIGNED FOR: THURSDAY, FEBRUARY 20, 1997 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco  
Legal Administrator

cc: Appellant /Protestant: Mark A. Guelta  
ATTORNEY FOR PROTESTANT: FRANCIS X. BANGSHEP, JR. - ENTERED APPEARANCE  
Petitioner: Katherine A. Gerry

People's Counsel for Baltimore County  
Pat Keller  
Lawrence E. Schmidt

Arnold Jablon, Director /PDM  
Virginia W. Barnhart, Co Atty





Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

August 1, 1996

Ms. Katherine A. Gerry  
5834 Stevens Road  
White Marsh, MD 21162

RE: Item No.: 7  
Case No.: 97-7-A  
Petitioner: Katherine A. Gerry

Dear Ms. Gerry:

The Zoning Advisory Committee (ZAC), which consists of representa-  
tives from Baltimore County approval agencies, has reviewed the plans  
submitted with the above referenced petition, which was accepted for  
processing by Permits and Development Management (PDM), Zoning Review, on  
July 3, 1996.

Any comments submitted thus far from the members of ZAC that offer or  
request information on your petition are attached. These comments are not  
intended to indicate the appropriateness of the zoning action requested,  
but to assure that all parties (zoning commissioner, attorney, petitioner,  
etc.) are made aware of plans or problems with regard to the proposed  
improvements that may have a bearing on this case. Only those comments  
that are informative will be forwarded to you; those that are not  
informative will be placed in the permanent case file.

If you need further information or have any questions regarding these  
comments, please do not hesitate to contact the commenting agency or  
Roslyn Subanks in the zoning office (887-3391).

Sincerely,

*W. Carl Richards, Jr.*  
W. Carl Richards, Jr.  
Zoning Supervisor

WCR/ce  
Attachment(s)

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management  
DEPRM  
JULY 22, 1996

FROM: Robert A. Wirth  
DEPRM

SUBJECT: Zoning Item #7 - Gerry Property  
5834 Stevens Road  
Zoning Advisory Committee Meeting of July 15, 1996

The Department of Environmental Protection and Resource Management has no  
comments on the above-referenced zoning item.

RAW:jbm  
GERRY/DEPRM/TXTSPB

Baltimore County Government  
Fire Department



700 East Joppa Road  
Towson, MD 21286-5500

Office of the Fire Marshal  
(410) 887-4880

DATE: 07/12/96

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 15, 1996.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed  
by this Bureau and the comments below are applicable and required to  
be corrected or incorporated into the final plans for the property.

S. The Fire Marshal's Office has no comments at this time.  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 2, 3, 4, 5, 6 and 7.

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office. PHONE 887-4881, MS-1102F

cc: File

Printed with Soy-based Ink  
on Recycled Paper

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Permits and Development  
Management  
DATE: July 11, 1996

FROM: Pat Keller, Director  
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item No. 521, 2, 3, 4, 5, 6, and 7

If there should be any further questions or if this office can provide additional  
information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by: *Jeffrey W. Long*  
Division Chief: *Pat Keller*

PK/JL

ITEMS21A/PZONE/ZAC1



Maryland Department of Transportation  
State Highway Administration

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 7 (JCM)

Dear Ms. Watson:

This office has reviewed the referenced plan and we have no  
objection to approval as the development does not access a State  
roadway and is not effected by any State Highway Administration  
projects.

Please contact Bob Small at 410-545-5581 if you have any  
questions. Thank you for the opportunity to review this plan.

Very truly yours,  
*for Bob Small*  
Ronald Burns, Chief  
Engineering Access Permits  
Division

33

My telephone number is \_\_\_\_\_

My fax number is \_\_\_\_\_

My e-mail address is \_\_\_\_\_

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717

Street Address: 100 North Calvert Street • Baltimore, Maryland 21202



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

September 3, 1996

Mrs. Katherine A. Gerry  
5834 Stevens Road  
White Marsh, MD 21162

RE: Petition for Zoning  
Variance  
S/S Stevens Road, 120 ft.  
W of c/l Coreley Beach Road  
(5834 Stevens Road)  
11th Election District  
5th Councilmanic District  
Katherine A. Gerry -  
Petitioner  
Case No. 97-7-A

Dear Mrs. Gerry:

Please be advised that an appeal of the above-referenced case was  
filed in this office on August 30, 1996 by Mr. Mark A. Guelta. All  
materials relative to the case have been forwarded to the Baltimore County  
Board of Appeals (Board).

If you have any questions concerning this matter, please do not  
hesitate to call 887-3180.

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Director

AJ:rye

cc: People's Counsel

Printed with Soy-based Ink  
on Recycled Paper

Petition for Zoning Variance  
S/S Stevens Road, 120 ft. W of c/l Coreley Beach Road  
11th Election District - 5th Councilmanic District  
Katherine A. Gerry - Petitioner  
Case No. 97-7-A

- ✓ Petition for Zoning Variance
- ✓ Description of Property
- ✓ Certificate of Posting
- ✓ Certificate of Publication
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibit: 1 - Plat to Accompany Petition for Zoning Variance
- ✓ Petition with Eleven Signatures
- ✓ Letter of Opposition
- ✓ Zoning Commissioner's Order dated August 7, 1996 (Granted)
- ✓ Notice of Appeal received on August 30, 1996 from Mr. Mark A. Guelta

cc: Mr. Mark A. Guelta, 5832 Stevens Road, White Marsh, MD 21162  
Mrs. Katherine A. Gerry, 5834 Stevens Road, 21162  
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Lawrence Schmidt, Zoning Commissioner  
Arnold Jablon, Director of PDM

Francis X. Borgerding, Jr., Esq.  
Mercantile Building - Suite 500  
110 Washington Avenue  
Towson, MD 21204

Entered appearance 9/8/97  
for Mark Guelta / PROTESTANT

9/8/97



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49  
400 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 887-3180

February 21, 1997

NOTICE OF DELIBERATION

Having concluded this case on February 20, 1997, the County Board of  
Appeals has scheduled the following date and time for deliberation in the  
matter of:

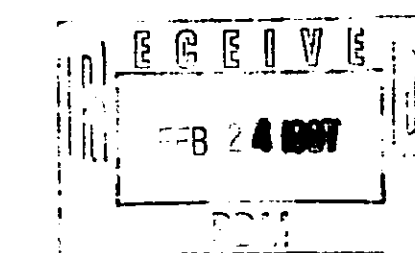
KATHERINE A. GERRY - Petitioner  
CASE NO. 887-7-A

DATE AND TIME : Thursday, March 13, 1997 at 9:30 a.m.  
LOCATION : Room 48, Basement, Old Courthouse

Kathleen C. Bianco  
Legal Administrator

cc: Appellant /Protestant Mark A. Guelta  
Attorney for Protestant Francis X. Borgerding, Jr., Esquire  
Petitioner Katherine A. Gerry  
People's Counsel for Baltimore County Arnold Jablon, Director /PDM  
Pat Keller Virginia W. Barnhart, Co Atty  
Lawrence E. Schmidt

Copied: K.W.M.



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on Recycled Paper



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Katherine A. Gerry -Petitioner  
Case No. 97-7-A

DATE : March 13, 1997 @ 9:30 a.m.

BOARD /FANEL : Kristine K. Howanski (KKH)  
S. Diane Levero (SDL)  
Margaret Worrall (MW)

SECRETARY : Kathleen C. Bianco  
Legal Administrator

Those present at this deliberation included Katherine A. Gerry, Petitioner, and Francis X. Borgerding, Jr., Esquire, Counsel for Protestant /Appellant, Mark A. Guelta. People's Counsel did not participate in these proceedings.

KKH: Good morning. We are here to deliberate Case No. 97-7-A, in the matter of Katherine A. Gerry, Petitioner. The issue is whether or not a variance can be afforded to the property pursuant to 304.18 of the Baltimore County Zoning Regulations. We are deliberating the issue this morning, and I will defer to my colleagues and hear from them first.

SDL: This case is an appeal from the decision of the Zoning Commissioner granting a variance from the Baltimore County Zoning Regulations to allow a commercial vehicle with advertising to be parked in the front yard of the subject property. The subject property is a waterfront home located on Bird River and zoned R.C. 2. Petitioner's son lives with his mother. He is employed by Caplan Glass and uses his truck on the job. He parks in the yard on the subject property when not working. The Protestant next door opposes granting the variance because of safety problems; children run and ride out into the street without looking. He opposes on the grounds that advertising on the truck may detract from the property values if the truck is parked.

The vice president of Caplan Glass testified; truck is used for emergency repairs; however indicated on cross that this is not a job requirement to take the truck home; more of a convenience. The company has a commercial lot.

In order to grant a variance, Petitioner must satisfy requirements for a variance pursuant to the zoning regulations and *Cromwell v. Ward*; property is unique in a manner that causes the regulations to impact disproportionately on that property and strict compliance would result in practical

Case No. 97-7-A Katherine A. Gerry Minutes of Deliberation

difficulty and unreasonable hardship. No evidence or testimony that the property is unique from the others in the neighborhood in a way that would cause the zoning regulations in this regard to impact disproportionately on her. As to practical difficulty or unreasonable hardship, her son uses the truck on the job; sometimes nights and weekends. But the company has a lot for vehicles; truck taken home for convenience and not necessity.

I think we need to make it clear in light of future cases which is the front or the rear. Unfortunately, the zoning regulations offer no definition of front and rear either in relation to the street or waterfront in relation to the water.

In my research, I found that this Board believes that waterfront homes face the water and the rear yard the street, as people value the waterfront view and treat the water side as the front yard, because of the view. I found Case No. 93-393-SPH (Jordan), which concerned property fronting on the Chesapeake Bay. In that Opinion, the Board found that an accessory structure facing the water was in the front yard.

In parking in the yard facing the street, he is parking in the rear yard. So he is not parking in the front yard. However, he is in violation of the regulation which limits advertising on the truck. In regard to this latter section, Petitioner has failed to meet the burden of proof, and I would therefore deny the Petition for Variance.

MW: I would completely concur with Ms. Levero's discussion. Rather than go over it again, I think the issue, she explained the issue very well. I would only point to a more recent case relative to the front and rear yard issue -- a case which was decided in July 1996 and in fact this case -- Case No. 96-104-A -- in this case, the opinion states:

...the waterfront characteristics of the property impact what is the front...designated as that side which has frontage on a public road...most buildings are oriented toward the public road. However, waterfront property is unique in that homes are oriented away from the street. This Zoning Commissioner, as well as the Board of Appeals, has consistently held that the front of waterfront property is the side that faces the water. [loosely quoted]

Indeed, the truck is being parked in what is the rear yard. And therefore, the problem of having a variance to park in the front yard is not a point here. It's a moot situation.

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Case No. 97-7-A Katherine A. Gerry Minutes of Deliberation

However, I also agree with her that in 431 the Petitioner is violating that section which states no advertising other than lettering on driver's door or passenger's side front door.

KKH: We do have concurrence. I agree with my colleagues that the first threshold cannot be satisfied in this case. In variance cases there does need to be a showing that the property is unique in a way relevant to what we are discussing today -- the parking issue. No testimony in that regard. I believe even if it had been attempted to prove, I doubt any would have existed to prove unique.

Were we to go on to the second prong and somehow determine it was unique, and go on to the second prong, there was no showing of practical difficulty. There was a showing of convenience, but no difficulty.

Were we to go on nevertheless and determine the case is ripe for variance consideration because it satisfied 307.1, I think I'm hearing all of us say that when you examine the standard to determine if it can be granted, there is an obvious failure to satisfy 431.

Regarding rear yard issue, most of case law from the Board, as well as on appeal, does seem to suggest that the front yard is the side facing the water, and so parking the vehicle where it is presently parked would, at least in this Board's view, constitute parking in the rear yard as case law stands. We did not view 431 as an obstacle in this case. We are all in agreement with that.

Accordingly, we will be issuing an Order denying the variance from 431B and the vehicle will not be permitted to park at the residence. Today is not the day from which to file an appeal, however. I believe we discussed this at the hearing. You will have 30 days from the date of the written Opinion if you feel aggrieved.

Respectfully submitted,

*Kathleen C. Bianco*  
Kathleen C. Bianco

3

Case No. 97-7-A

VAR -To allow commercial vehicle with advertising to be parked in front yard  
8/07/96 -Zoning Commissioner's Order in which Petition for Variance was GRANTED.

12/11/96 -Notice of Assignment for hearing scheduled for Thursday, February 20, 1997 at 10:00 a.m. sent to following:

Appellant /Protestant: Mark A. Guelta  
Petitioner: Katherine A. Gerry  
People's Counsel for Baltimore County  
Pat Keller Arnold Jablon, Director /PDM  
Lawrence E. Schmidt Virginia W. Barnhart, Co Atty

2/18/97 -Entry of Appearance on Behalf of Appellant /Protestant - Francis X. Borgerding, Jr., Esquire

2/20/97 -Hearing concluded before the Board (KMM); notice of deliberation to sent and deliberation scheduled.

2/21/97 -Notice of Deliberation sent to parties (and copies to K.W.M.); scheduled for Thursday, March 13, 1997 at 9:30 a.m.

3/13/97 -Deliberation concluded; petition for variance DENIED; written Opinion/Order to be issued by Board; appellate period to run from date of written Order, and not today's date. (KMM)

FRANCIS X. BORGERDING, JR.

Attorney at Law  
MERCANTILE BUILDING - SUITE 600  
409 WASHINGTON AVENUE  
TOWSON, MARYLAND 21204  
(410) 296-6870  
FAX (410) 296-6884

February 18, 1997

Clerk  
County Board of Appeals  
of Baltimore County  
Old Courthouse, Room 49  
400 Washington Avenue  
Towson, Maryland 21204

RE: Case No.: 97-7-A  
In the Matter of Katherine A. Gerry, Petitioner  
(4834 Stevens Road)  
Hearing Date: Thursday, February 20, 1997 @ 10:00 A.M.

Dear Clerk:

Please enter my appearance on behalf of Protestant, Mr. and Mrs. Mark A. Guelta, in regard to the above-referenced case set for hearing on Thursday, February 20, 1997, at 10:00 A.M.

Very truly yours,

*Francis X. Borgerding, Jr.*  
FRANCIS X. BORGERDING, JR.

FKB:trb  
cc: Mr. Katherine A. Gerry

*Mark A. Guelta*  
5832 Stevens Rd  
White Marsh MD 21162  
410.887.3468  
4175.00 Per Paid

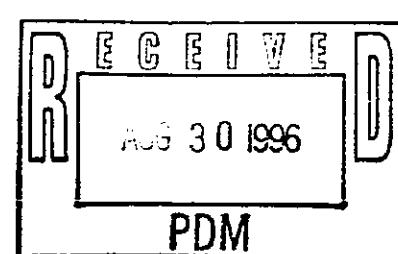
*Arnold Jablon, Director*  
Baltimore County Department of  
Permits and Development Management  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Zoning Case No. 97-7-A  
Petition for Zoning Variance

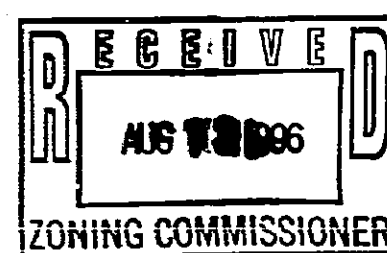
Dear Mr. Jablon:

Please treat this as a notice of an appeal to the Board of Appeals being filed in the above-referenced case. Enclosed is a check to cover cost of some. Please see that all return notices and communications regarding this case be sent to the under signed.

Very Truly Yours  
*Mark A. Guelta*  
Mark A. Guelta



SENT BY:ERDEC. APG. MD 21010 : 8-13-96 : 10:39 : BLDG E8160- 410 887 3468# 1/ 4



Mark A. Guelta  
5832 Stevens Road  
White Marsh MD 21162

24 July 1996

Zoning Commissioner  
401 Washington Avenue  
Rm. 115  
Towson MD 21204

CASE: 97-7-A

Zoning Commissioner.

I writing to express my opposition to Zoning Case 97-7-A, request for a variance to permit parking of a commercial vehicle with advertising at 5834 Stevens Rd, White Marsh MD 21162. I have lived next to the Gerry residence for about 14 years. During that time I have been friends with the Gerry's, they are likable, personable and normally pleasant. They are generally liked by their near neighbors. One of my few complaints with them is their seeming lack of concern for impositions they often cause on their near neighbors. One such imposition is the parking of commercial vehicle and other vehicles in their yard and on the street. An event that elevated my unhappiness with the vehicle parking situation occurred recently is the near hitting of one of their children with my vehicle. My other reasons for opposing the parking of the "Caplan" glass truck follow:

1. Safety. As mentioned I nearly hit Wayne Gerry Jr.'s youngest son Steven with my truck when he came darting into the street from his yard. The Gerry's parking lot is small and close to the road. Whenever the Caplan truck is parked in the yard it creates a huge blind spot for oncoming traffic. That is, any child or pedestrian that is entering the street from the Gerry yard is blind to any oncoming vehicles as are drivers of the vehicles to pedestrians or other vehicles coming out to the road. There is no room in the Gerry's small yard to get the truck off the road or out of sight. Upon speaking to Mr. Gerry about the incident I got the impression that he was not very concerned about the danger the glass truck represented but more about the potential overtime he may lose if not allowed to bring the truck home. This lack of concern is apparent in that he continues to this day to park the truck in his driveway only inches off the street near the zoning appeal sign in defiance of the zoning laws he knows he is breaking. My thought was that if he cares so little for the safety of his own son he's going to care less about my son or the other kids in the neighborhood.

Since we live on a quiet street it is a popular place for the neighborhood kids to play. Children often run or ride bikes in and out of the Gerry yard into the street or across the street to the neighbors yard. There is so much child traffic that the neighbor across the street recently installed a gate to allow kids to pass back and forth. This increases the chance for a child to dart into the path of oncoming from behind the Caplan glass truck. The Caplan truck has no place in a quiet residential neighborhood. If I had hit Wayne's son with my truck I would have been emotionally sick over the incident and am certain the incident would have resulted in law suits

SENT BY:ERDEC. APG. MD 21010 : 8-13-96 : 10:40 : BLDG E8160- 410 887 3468# 2/ 4

against me. Please protect the children and residents from such incidents by keeping that truck out.

2. Community integrity. There are some very nice homes in our community. Many have been recently rebuilt or remodeled. It is unfair to the residents who are trying to improve homes and the community to have such an eyesore parked in plain view of their homes. Our community is a quiet residential area. The huge Caplan glass truck that Mr. Gerry brings in is purely commercial. It is an assault on the eye and on the ears. Its immensely painted bright red to draw attention to itself and its big bold advertisement. The trucks presence in no way serves any of the needs of the community. Its only use is to bring in the extra money Mr. Gerry gets for parking it there. The fact that Mr. Gerry, and his truck, are on 24 hour call means that Caplan Glass is in essence establishing a satellite service terminal so they can more quickly respond to business in our area.

The presence of this commercial vehicle in the neighborhood will reduce the value of the homes for sale in the area. I have put a lot of money into my home, I don't want Mr. Gerry's truck diminishing its resale value. In the event he is allowed to park the truck, I will certainly appeal to have my property taxes lowered as a result.

3. The potential for further violations. Since Mrs. Gerry's dependents have grown and moved out she has quietly turned her house into three apartments. She leases the apartments in the basement and on the second floor. Wayne Gerry Jr. rents the 2nd floor apartment, thus he doesn't even pay any property taxes. There are now three adult men who work for Caplan Glass living at her residence. On numerous occasions there have been multiple Caplan trucks parked at her home for evenings and weekends. I have enclosed a photo of two unsightly glass trucks in her driveway. Caplan Glass offers pay incentives employees on 24 hour call who can park trucks at their homes. If permission is granted to park one truck in the yard then why not another. They are already one over the limit. If the Gerry's are allowed to park trucks in their yard for extra money, then so should others. It would be unfair to others who would like to profit from renting space to commercial vehicles. I have space in my yard for several. You cannot start a trend. All commercial vehicles need to be kept out of the neighborhood.

4. The ability to be on call is not a requirement of Mr. Gerry's employment. He has been at Caplan for nearly 10 years. Only in recent years has he been on call. Supposedly being on 24 hour call is for emergency response. To me, firefighters, police and rescue workers respond to emergencies. I cannot imagine an emergency response for a custom mirror installation, Mr. Gerry's specialty.

I appreciate the opportunity to voice my opposition to this variance. I hope you consider my concerns while making your decision. Be advised that I am not the only member of the community opposed to this variance, but I am the only one willing to go on record. Since I live closest to the Gerry's I have the highest stake in this matter.

Sincerely,  
Mark A. Guelta

*Mark A. Guelta*

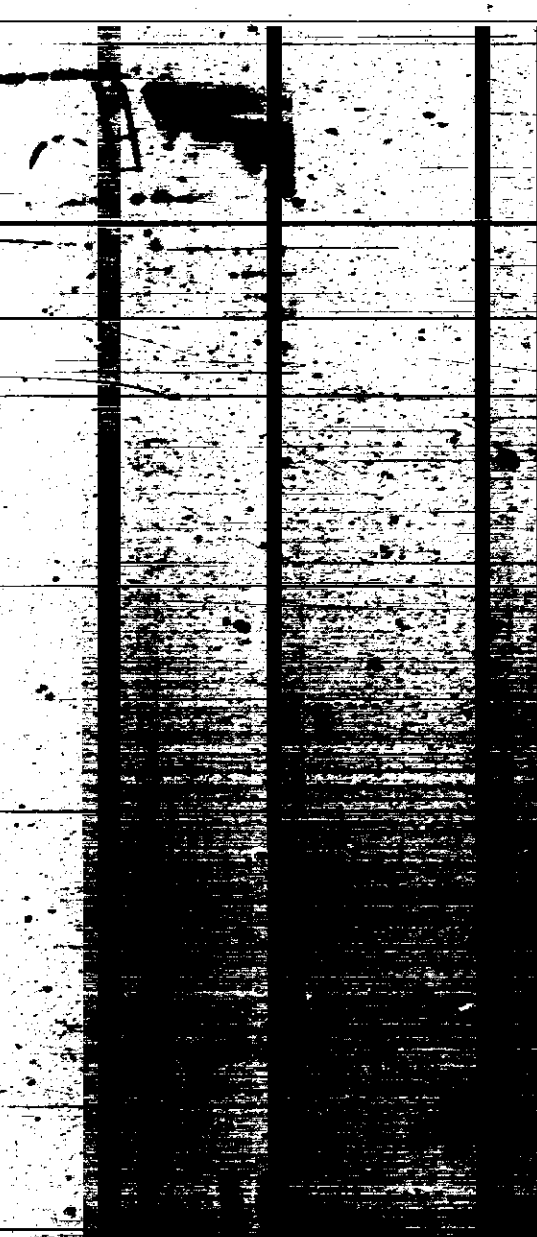
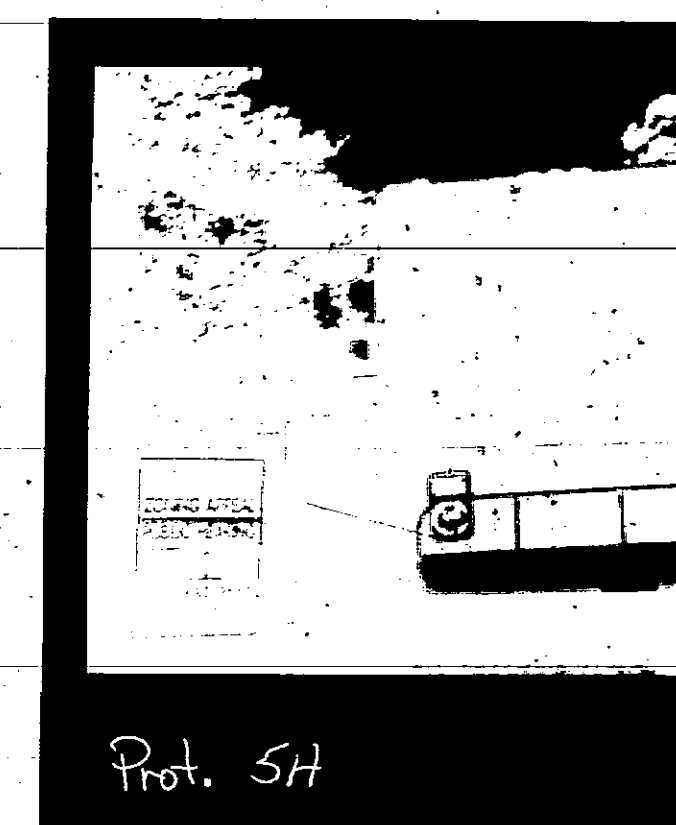
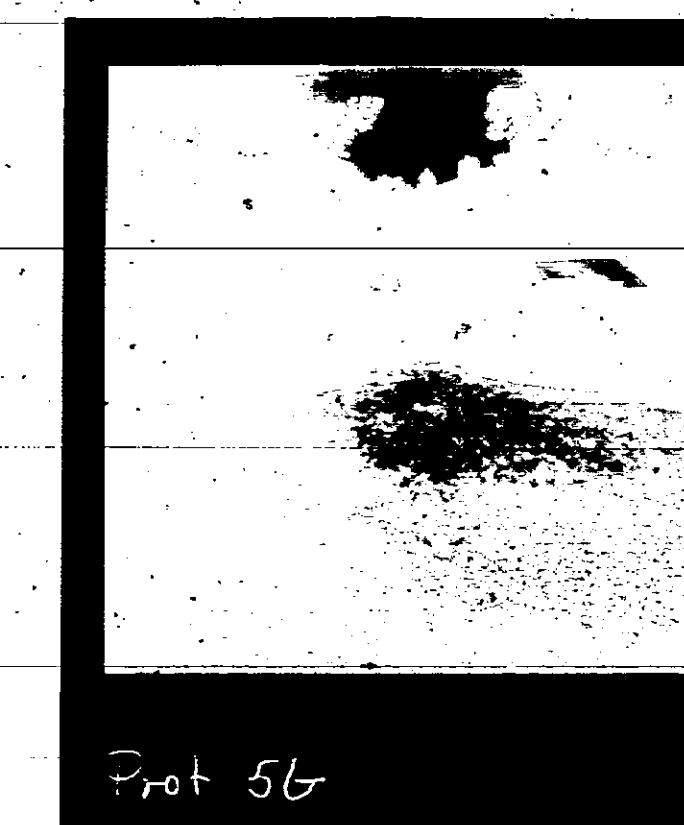
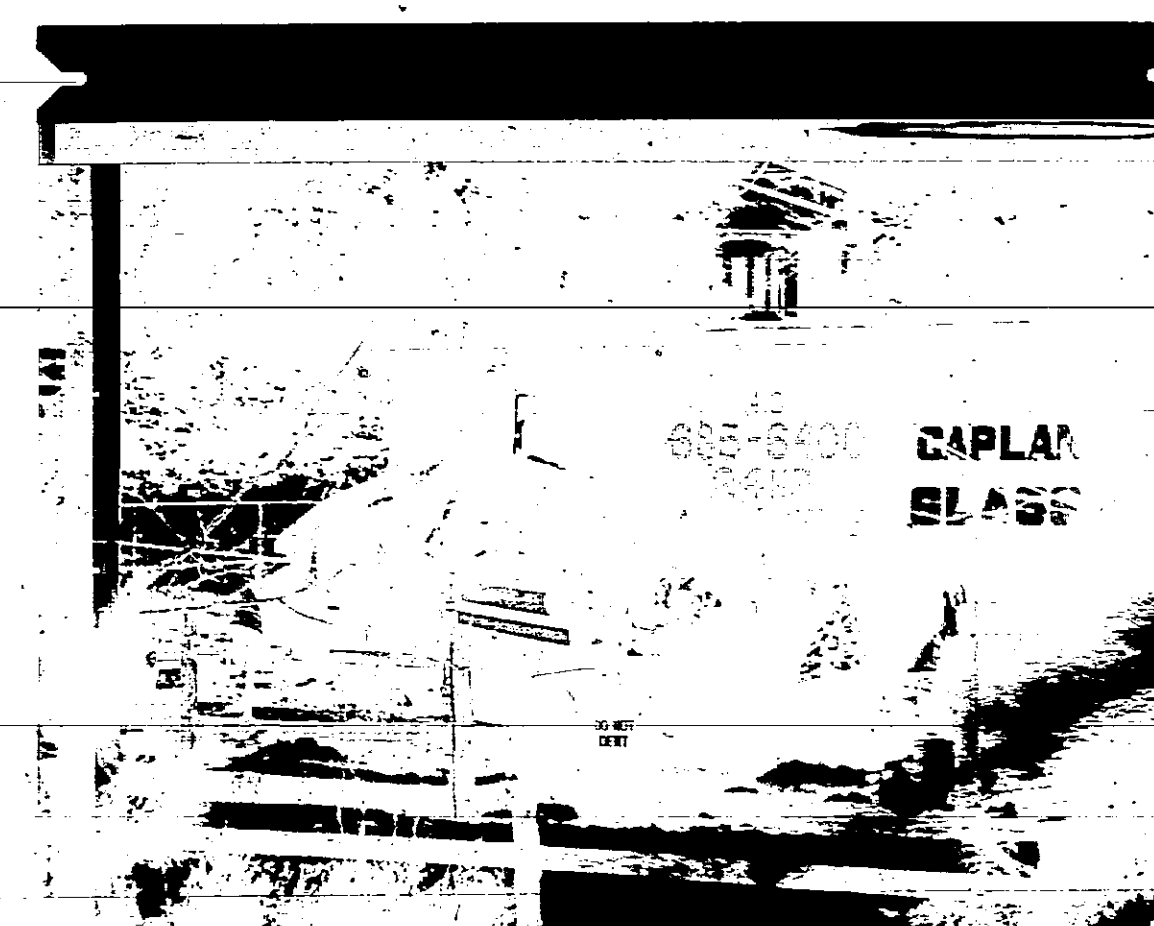
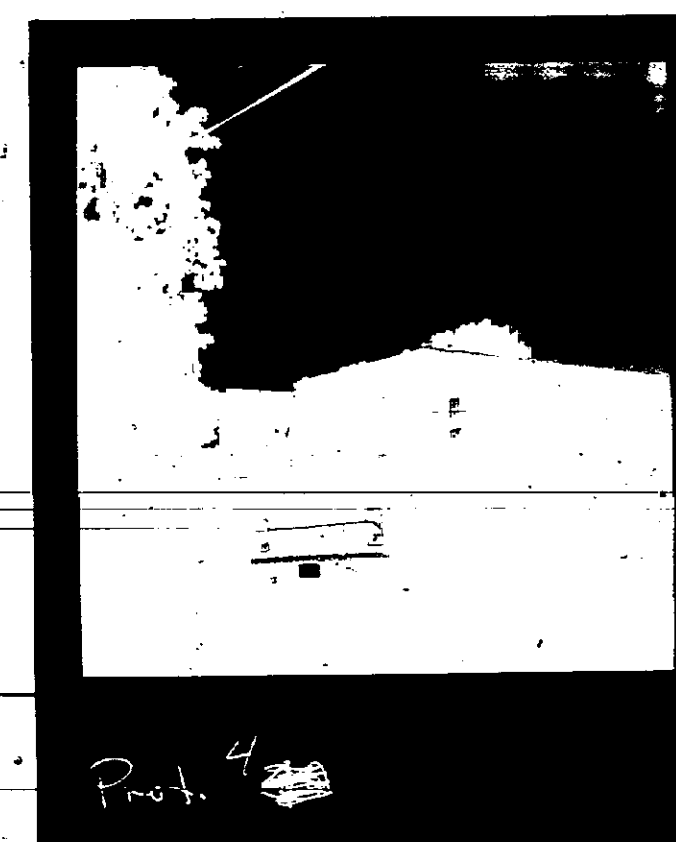
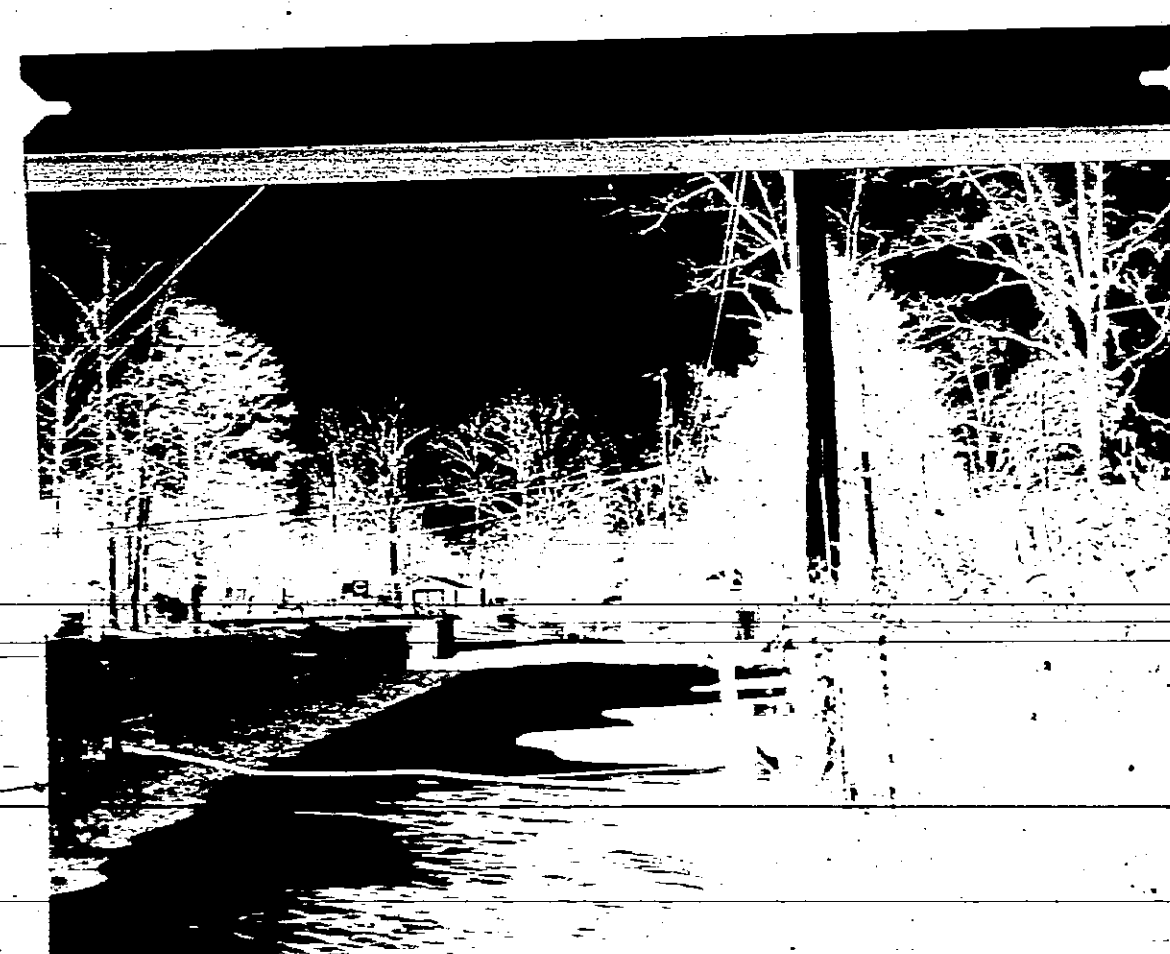
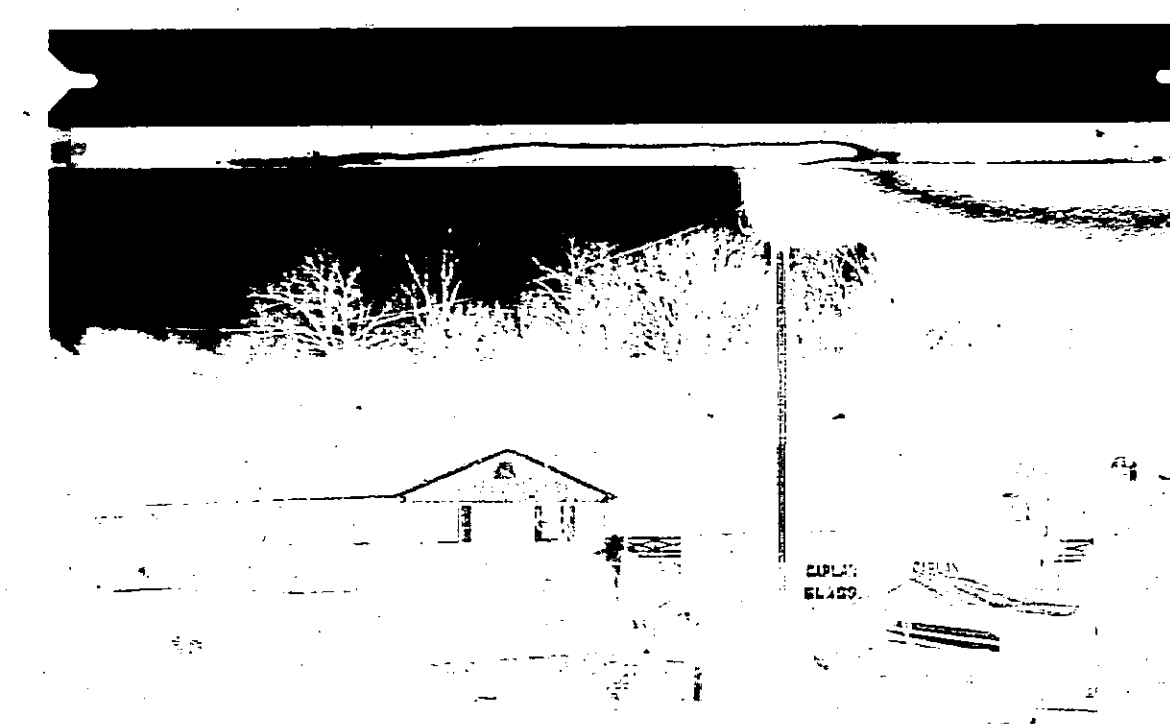
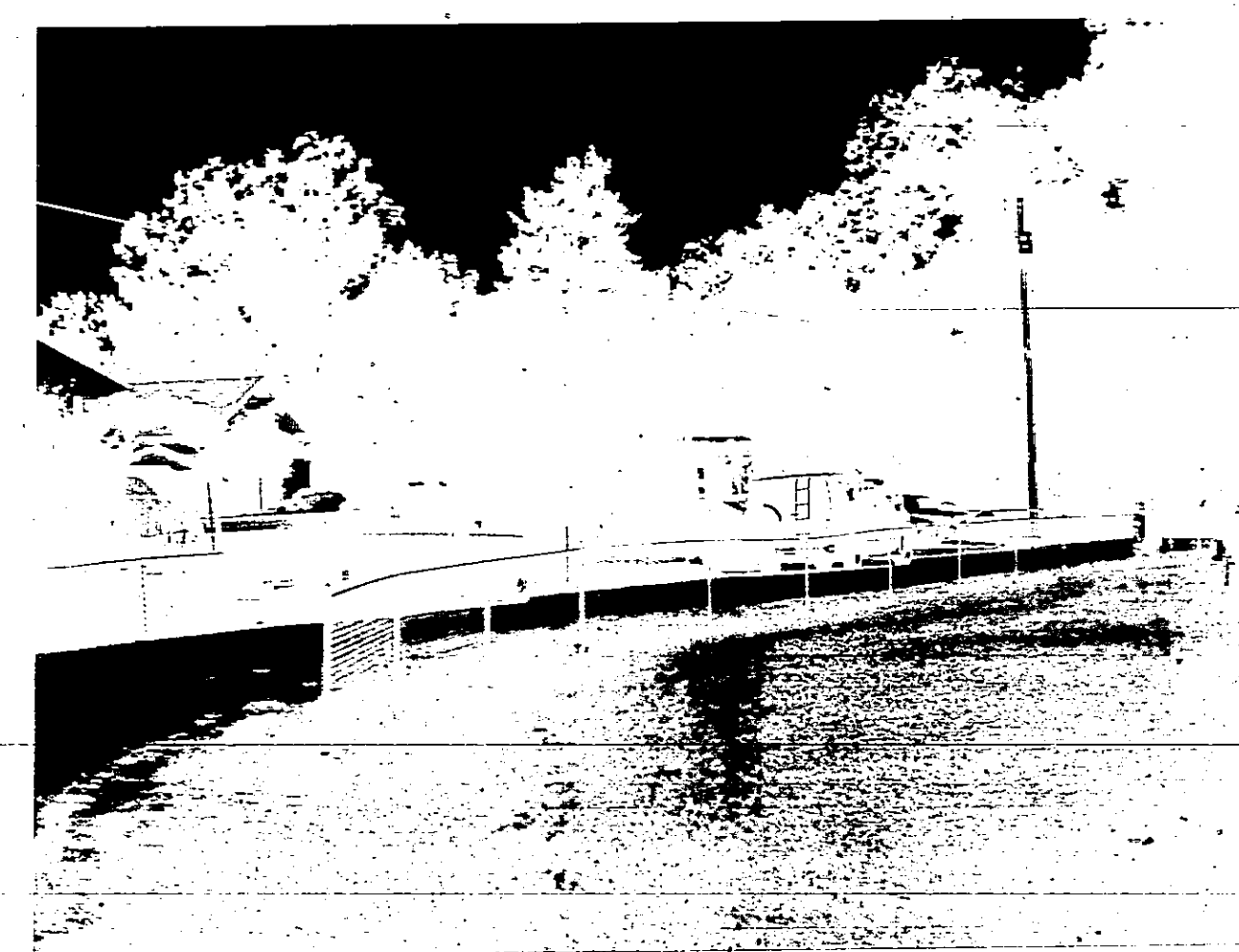
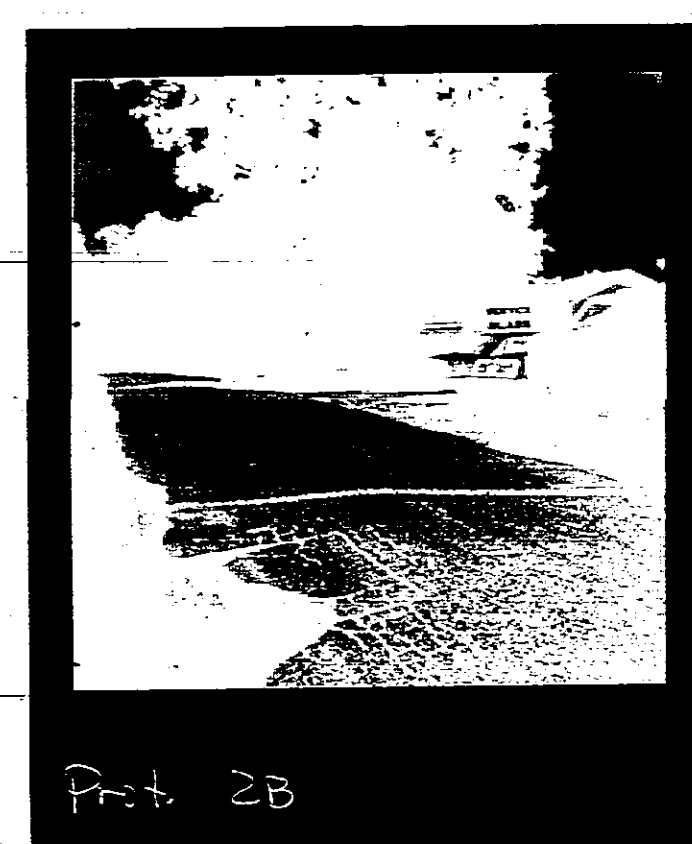
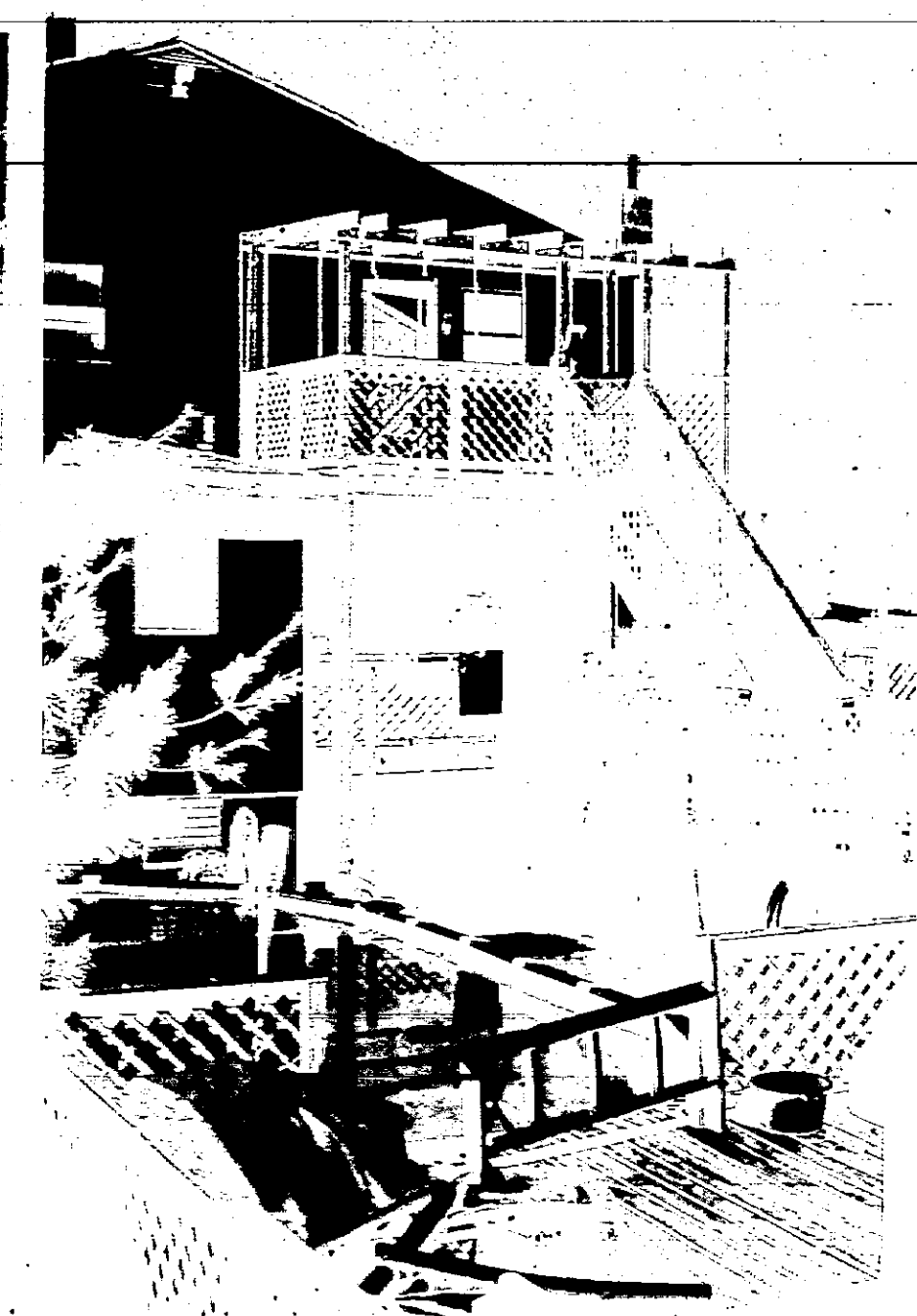
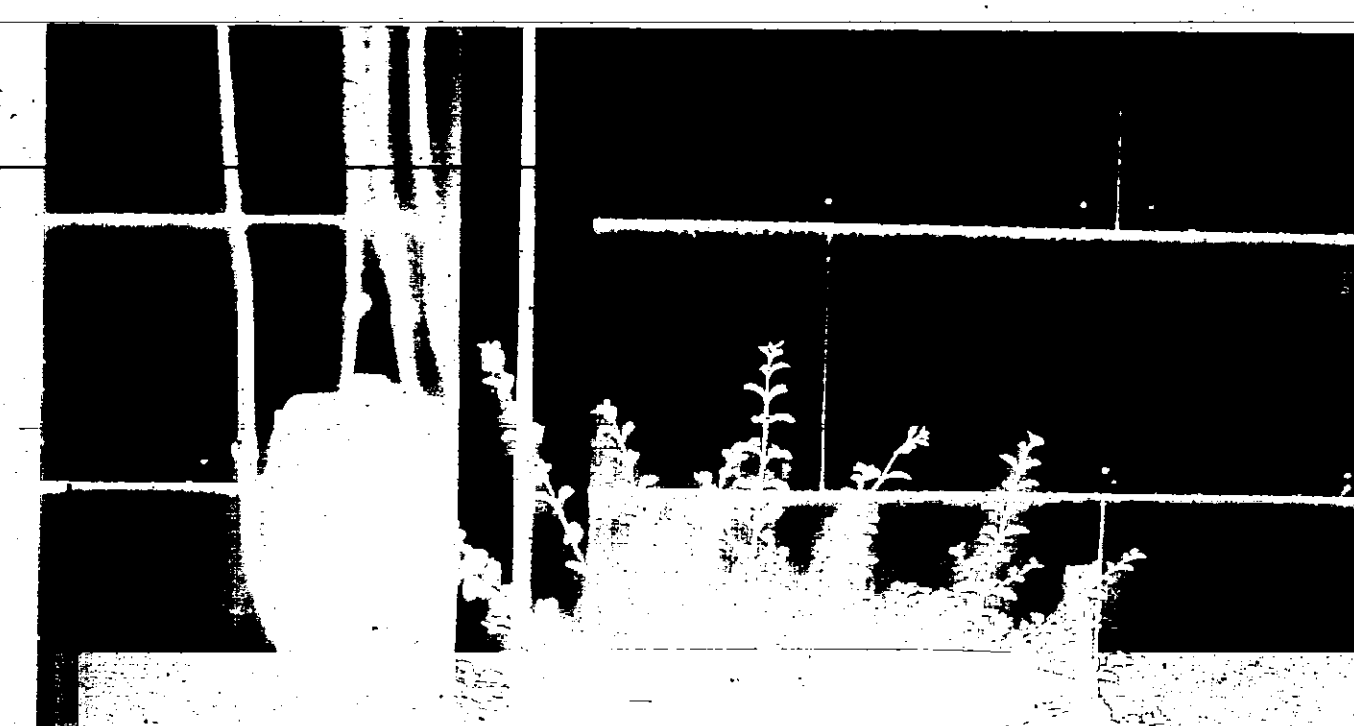




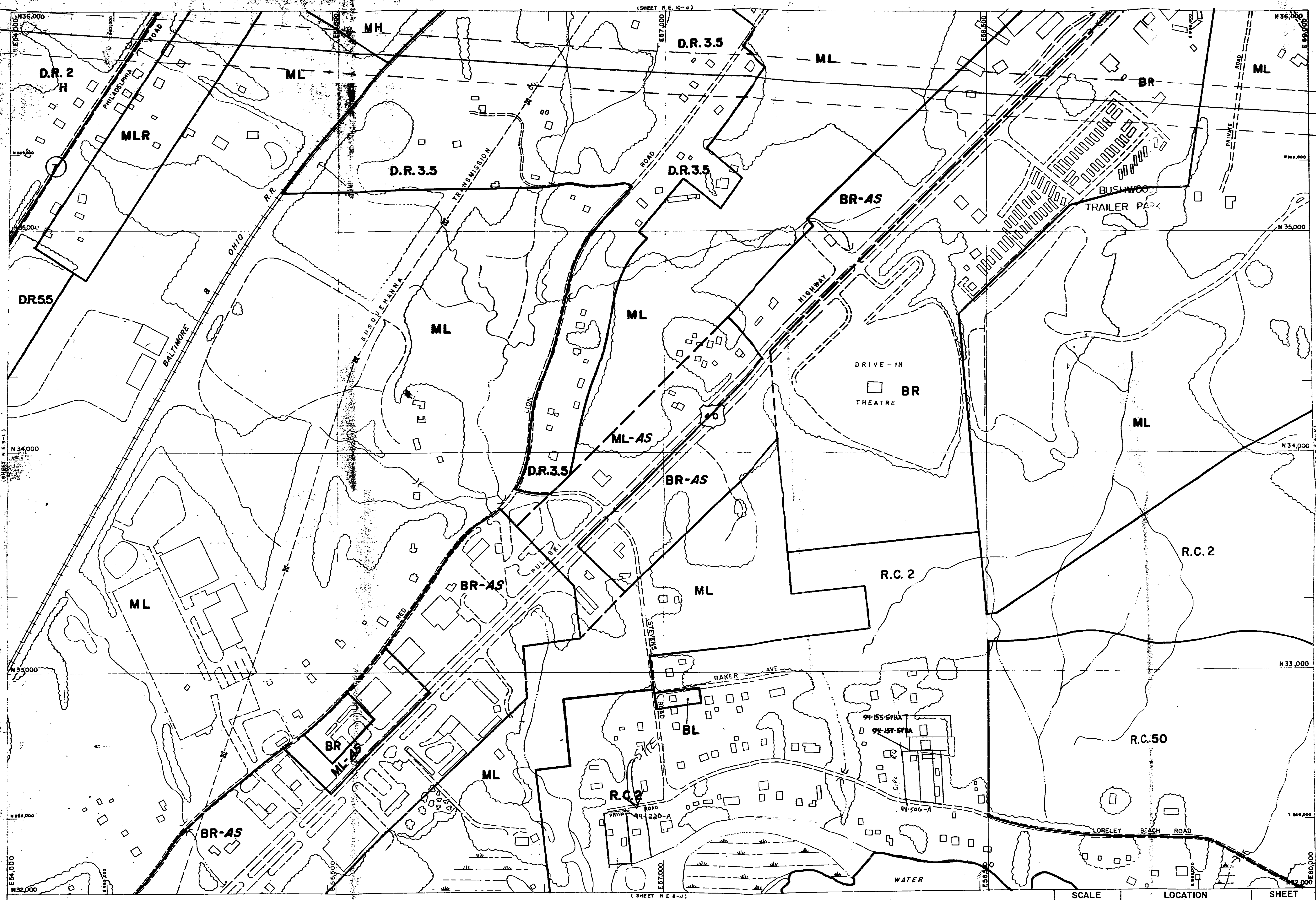


County Board of Appeals  
Room 219, Court House  
Towson, Maryland 21204

*Printers 1A-1B-1C*  
*2A → 2H } 20 photos*  
*5A → 5H*  
*97-7-A Sharp*







M-NE MM-NW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.  
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS  
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

## BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

**1992 COMPREHENSIVE ZONING MAP**  
Adopted by the Baltimore County Council  
Oct. 15, 1992

REV. AS PER BILL NO. 175-94 EFFECTIVE 1-1-95

*William A. Howard*  
Chairman, County Council

SCALE  
1" = 200'

DATE  
OF  
PHOTOGRAPHY  
JANUARY  
1986

LOCATION  
**LORELEY  
WHITEMARSH  
AREA**

SHEET  
**N.E.  
9-J**

97-7-A